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ANNALS

OF

THE CONGRESS OF THE UNITED STATES.

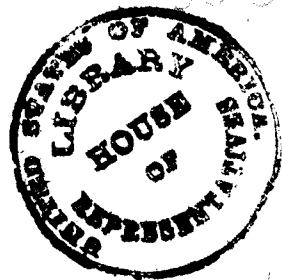
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EIGHTH CONGRESS.

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THE  
DEBATES AND PROCEEDINGS  
IN THE  
CONGRESS OF THE UNITED STATES;



WITH  
AN APPENDIX,

CONTAINING  
IMPORTANT STATE PAPERS AND PUBLIC DOCUMENTS,

AND ALL  
THE LAWS OF A PUBLIC NATURE;

WITH A COPIOUS INDEX.

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EIGHTH CONGRESS.  
COMPRISING THE PERIOD FROM OCTOBER 17, 1803, TO MARCH 3, 1805,  
INCLUSIVE.

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COMPILED FROM AUTHENTIC MATERIALS.

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WASHINGTON:

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.....  
1852.



# PROCEEDINGS AND DEBATES

OF

## THE SENATE OF THE UNITED STATES,

AT THE FIRST SESSION OF THE EIGHTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, OCTOBER 17, 1803.

MONDAY, October 17, 1803.

The first session of the eighth Congress, conformably to the Constitution of the United States, commenced at the City of Washington, agreeably to the Proclamation of the President of the United States for that purpose; and the Senate assembled on this day.

### PRESENT:

SIMEON OLCOTT and WILLIAM PLUMER, from New Hampshire;

TIMOTHY PICKERING, from Massachusetts;

JAMES HILLHOUSE and URIAH TRACY, from Connecticut;

CHRISTOPHER ELLERY and SAMUEL I. POTTER, from Rhode Island;

STEPHEN R. BRADLEY and ISRAEL SMITH, from Vermont;

DEWITT CLINTON and THEODORUS BAILEY, from New York;

JONATHAN DAYTON and JOHN CONDIT, from New Jersey;

GEORGE LOGAN and SAMUEL MACLAY, from Pennsylvania;

WILLIAM HILL WELLS and SAMUEL WHITE, from Delaware;

ROBERT WRIGHT and SAMUEL SMITH, from Maryland;

JOHN TAYLOR and WILSON CAREY NICHOLAS, from Virginia;

JOHN BROWN and JOHN BRECKENRIDGE, from Kentucky;

JESSE FRANKLIN and DAVID STONE, from North Carolina;

JOSEPH ANDERSON and WILLIAM COCKE, from Tennessee;

ABRAHAM BALDWIN, from Georgia; and

THOMAS WORTHINGTON, from Ohio.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tem.*, as the Constitution provides, and the ballots being collected and counted, the whole number was found to be twenty-nine, of which fifteen make a majority. Mr. BROWN had 24, Mr. BALDWIN 2, Mr. DAYTON 2, and Mr. PICKERING 1.

Consequently, the honorable JOHN BROWN was elected President of the Senate *pro tempore*.

The credentials of the following Senators were severally read, to wit:

Of JOSEPH ANDERSON, appointed a Senator by the Legislature of the State of Tennessee; of THEODORUS BAILEY, appointed a Senator by the Legislature of the State of New York; of JAMES HILLHOUSE, appointed a Senator by the Legislature of the State of Connecticut; of SAMUEL MACLAY, appointed a Senator by the Legislature of the State of Pennsylvania; of SAMUEL I. POTTER, appointed a Senator by the Legislature of the State of Rhode Island; of ISRAEL SMITH, appointed a Senator by the Legislature of the State of Vermont; of SAMUEL WHITE, appointed a Senator by the Legislature of the State of Delaware; for the term of six years from and after the third day of March last, respectively: also, of THOMAS WORTHINGTON, appointed a Senator by the Legislature of the State of Ohio; of JOHN CONDIT, appointed a Senator by the Executive of the State of New Jersey; of JOHN TAYLOR, appointed a Senator by the Executive of the State of Virginia, in place of S. T. Mason, deceased; of TIMOTHY PICKERING, appointed a Senator by the Legislature of the State of Massachusetts, in the place of Dwight Foster, resigned; and the oath required by law was, by the PRESIDENT, administered to them respectively.

The oath was also administered to SAMUEL SMITH, appointed a Senator by the Legislature of the State of Maryland, for the term of six years from and after the third day of March last.

*Ordered*, That the Secretary wait on the President of the United States and acquaint him that a quorum of the Senate is assembled, and that, in the absence of the VICE PRESIDENT, they have elected the Hon. JOHN BROWN, President of the Senate *pro tempore*.

The Secretary was directed to give a similar notice to the House of Representatives.

*Resolved*, That JAMES MATHERS, Sergeant-at-Arms and Doorkeeper to the Senate, be, and he is hereby, authorized to employ one additional as-

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sistant and two horses, for the purpose of performing such services as are usually required by the Doorkeeper to the Senate; and that the sum of twenty-eight dollars be allowed him weekly for that purpose during the session, and for twenty days after.

*Resolved*, That each Senator be supplied during the present session with three such newspapers, printed in any of the States, as he may choose, provided that the same be furnished at the usual rate for the annual charge of such papers.

A message from the House of Representatives informed the Senate that a quorum of the House had assembled, and had elected the Hon. NATHANIEL MAON their Speaker, and is ready to proceed to business.

*Ordered*, That Messrs. CLINTON and BRECKENRIDGE be a committee on the part of the Senate, together with such committee as the House of Representatives may appoint on their part, to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communications that he may be pleased to make to them.

A message from the House of Representatives informed the Senate, that the House agree to the resolution of the Senate for the appointment of a joint committee to wait on the President of the United States, and have appointed a committee on their part.

On motion, *Resolved*, That two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

*Ordered*, That the Secretary desire the concurrence of the House of Representatives in this resolution.

The Senate proceeded to the choice of a Chaplain on their part, and the ballots having been collected and counted, the whole number was twenty-eight; of which fifteen make a majority. Mr. GANTT had 15 votes, and Mr. M'CORMICK 13.

Consequently, the Rev. Dr. GANTT was elected.

Mr. CLINTON reported, from the joint committee appointed for the purpose, that they had waited on the President of the United States, and that he had acquainted them that he would make a communication to the two Houses, by message, immediately.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

In calling you together, fellow-citizens, at an earlier day than was contemplated by the act of the last session of Congress, I have not been insensible to the personal inconveniences necessarily resulting from an unexpected change in your arrangements. But matters of great public concernment have rendered this call necessary, and the interest you feel in these will supersede, in your minds, all private considerations.

Congress witnessed, at their late session, the extraordinary agitation produced in the public mind by the suspension of our right of deposit at the port of New Orleans, no assignment of another place having been made according to treaty. They were sensible that

the continuance of that privation would be more injurious to our nation than any consequences which could flow from any mode of redress; but, reposing just confidence in the good faith of the Government whose officer had committed the wrong, friendly and reasonable representations were resorted to, and the right of deposit was restored.

Previous, however, to this period, we had not been unaware of the danger to which our peace would be perpetually exposed whilst so important a key to the commerce of the western country remained under a foreign Power. Difficulties too were presenting themselves as to the navigation of other streams, which arising within our territories, pass through those adjacent. Propositions had therefore been authorized for obtaining, on fair conditions, the sovereignty of New Orleans, and of other possessions in that quarter, interesting to our quiet, to such extent as was deemed practicable; and the provisional appropriation of two millions of dollars, to be applied and accounted for by the President of the United States, intended as part of the price, was considered as conveying the sanction of Congress to the acquisition proposed. The enlightened Government of France saw, with just discernment, the importance to both nations of such liberal arrangements as might best and permanently promote the peace, interests, and friendship of both; and the property and sovereignty of all Louisiana, which had been restored to them, has, on certain conditions, been transferred to the United States, by instruments bearing date the 30th of April last. When these shall have received the Constitutional sanction of the Senate, they will, without delay, be communicated to the Representatives for the exercise of their functions, as to those conditions which are within the powers vested by the Constitution in Congress. Whilst the property and sovereignty of the Mississippi and its waters secure an independent outlet for the produce of the Western States, and an uncontrolled navigation through their whole course, free from collision with other Powers, and the dangers to our peace from that source, the fertility of the country, its climate and extent, promise, in due season, important aids to our Treasury, an ample provision for our posterity, and a wide spread for the blessings of freedom and equal laws.

With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into our Union; for rendering the change of government a blessing to our newly adopted brethren; for securing to them the rights of conscience and of property; for confirming to the Indian inhabitants their occupancy and self-government, establishing friendly and commercial relations with them, and for ascertaining the geography of the country acquired. Such materials for your information relative to its affairs in general, as the short space of time has permitted me to collect, will be laid before you when the subject shall be in a state for your consideration.

Another important acquisition of territory has also been made since the last session of Congress. The friendly tribe of Kaskaskia Indians, with which we have never had a difference, reduced by the wars and wants of savage life to a few individuals, unable to defend themselves against the neighboring tribes, has transferred its country to the United States, reserving only for its members what is sufficient to maintain them in an agricultural way. The considerations stipulated are, that we shall extend to them our patronage and protection, and give them certain annual aids, in money,

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in implements of agriculture, and other articles of their choice. This country, among the most fertile within our limits, extending along the Mississippi from the mouth of the Illinois to and up the Ohio, though not so necessary as a barrier since the acquisition of the other bank, may yet be well worthy of being laid open to immediate settlement, as its inhabitants may descend with rapidity in support of the lower country, should future circumstances expose that to foreign enterprise. As the stipulations in this treaty also involve matters within the competence of both Houses only, it will be laid before Congress as soon as the Senate shall have advised its ratification.

With many of the other Indian tribes improvements in agriculture and household manufacture are advancing; and, with all, our peace and friendship are established on grounds much firmer than heretofore. The measure adopted of establishing trading-houses among them, and of furnishing them necessaries in exchange for their commodities at such moderate prices as leave no gain, but cover us from loss, has the most conciliatory and useful effect on them, and is that which will best secure their peace and good will.

The small vessels authorized by Congress, with a view to the Mediterranean service, have been sent into that sea, and will be able more effectually to confine the Tripoline cruisers within their harbors, and supersede the necessity of convoy to our commerce in that quarter. They will sensibly lessen the expenses of that service the ensuing year.

A further knowledge of the ground in the northeastern and northwestern angles of the United States has evinced that the boundaries established by the treaty of Paris, between the British territories and ours in those parts, were too imperfectly described to be susceptible of execution. It has therefore been thought worthy of attention, for preserving and cherishing the harmony and useful intercourse subsisting between the two nations, to remove, by timely arrangements, what unfavorable incidents might otherwise render a ground of future misunderstanding. A convention has therefore been entered into, which provides for a practicable demarcation of those limits, to the satisfaction of both parties.

An account of the receipts and expenditures of the year ending 30th September last, with the estimates for the service of the ensuing year, will be laid before you by the Secretary of the Treasury, so soon as the receipts of the last quarter shall be returned from the more distant States. It is already ascertained that the amount paid into the Treasury for that year has been between eleven and twelve millions of dollars; and that the revenue accrued, during the same term, exceeds the sum counted on as sufficient for our current expenses, and to extinguish the public debt within the period heretofore proposed.

The amount of debt paid for the same year is about three million one hundred thousand dollars, exclusive of interest, and making, with the payment of the preceding year, a discharge of more than eight millions and a half of dollars of the principal of that debt, besides the accruing interest: and there remain in the Treasury nearly six millions of dollars. Of these, eight hundred and eighty thousand have been reserved for payment of the first instalment due under the British convention of January 8th, 1802, and two millions are what have been before mentioned as placed by Congress, under the power and accountability of the President, towards the price of New Orleans, and other territories acquired,

which, remaining untouched, are still applicable to that object, and go in diminution of the sum to be funded for it.

Should the acquisition of Louisiana be Constitutionally confirmed and carried into effect, a sum of nearly thirteen millions of dollars will then be added to our public debt, most of which is payable after fifteen years; before which term, the present existing debts will all be discharged by the established operation of the Sinking Fund. When we contemplate the ordinary annual augmentation of impost from increasing population and wealth, the augmentation of the same revenue by its extension to the new acquisition, and the economies which may still be introduced into our public expenditures, I cannot but hope that Congress, in reviewing their resources, will find means to meet the intermediate interest of this additional debt, without recurring to new taxes; and applying to this object only the ordinary progression of our revenue, its extraordinary increase in times of foreign war will be the proper and sufficient fund for any measures of safety or precaution which that state of things may render necessary in our neutral position.

Remittances for the instalments of our foreign debt having been found practicable without loss, it has not been thought expedient to use the power, given by a former act of Congress, of continuing them by re-loans, and of redeeming, instead thereof, equal sums of domestic debt, although no difficulty was found in obtaining that accommodation.

The sum of fifty thousand dollars appropriated by Congress for providing gun boats remains unexpended. The favorable and peaceable turn of affairs on the Mississippi rendered an immediate execution of that law unnecessary; and time was desirable in order that the institution of that branch of our force might begin on models the most approved by experience. The same issue of events dispensed with a resort to the appropriation of a million and a half of dollars, contemplated for purposes which were effected by happier means.

We have seen with sincere concern the flames of war lighted up again in Europe, and nations, with which we have the most friendly and useful relations, engaged in mutual destruction. While we regret the miseries in which we see others involved, let us bow with gratitude to that kind Providence, which, inspiring with wisdom and moderation our late Legislative Councils, while placed under the urgency of the greatest wrongs, guarded us from hastily entering into the sanguinary contest, and left us only to look on and to pity its ravages. These will be the heaviest on those immediately engaged. Yet the nations pursuing peace will not be exempt from all evil. In the course of this conflict let it be our endeavor, as it is our interest and desire, to cultivate the friendship of the belligerent nations by every act of justice, and of innocent kindness; to receive their armed vessels with hospitality from the distresses of the sea, but to administer the means of annoyance to none; to establish in our harbors such a police as may maintain law and order; to restrain our citizens from embarking individually in a war in which their country takes no part; to punish severely those persons, citizen or alien, who shall usurp the cover of our flag for vessels not entitled to it, infecting thereby with suspicion those of real Americans, and committing us into controversies for the redress of wrongs not our own; to exact from every nation the observance, towards our vessels and citizens, of those principles and practices which all civilized people acknowledge; to merit the character of a just nation, and

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maintain that of an independent one, preferring every consequence to insult and habitual wrong. Congress will consider whether the existing laws enable us efficaciously to maintain this course with our citizens in all places, and with others while within the limits of our jurisdiction; and will give them the new modifications necessary for these objects. Some contraventions of right have already taken place, both within our jurisdictional limits, and on the high seas. The friendly disposition of the Governments from whose agents they have proceeded, as well as their wisdom and regard for justice, leave us in reasonable expectation that they will be rectified and prevented in future; and that no act will be countenanced by them which threatens to disturb our friendly intercourse. Separated by a wide ocean from the nations of Europe, and from the political interests which entangle them together, with productions and wants which render our commerce and friendship useful to them, and theirs to us, it cannot be the interest of any to assail us, nor ours to disturb them. We should be most unwise, indeed, were we to cast away the singular blessings of the position in which nature has placed us, the opportunity she has endowed us with, of pursuing, at a distance from foreign contentions, the paths of industry, peace, and happiness; of cultivating general friendship, and of bringing collisions of interest to the umpire of reason rather than of force. How desirable, then, must it be, in a Government like ours, to see its citizens adopt, individually, the views, the interests, and the conduct, which their country should pursue, divesting themselves of those passions and partialities which tend to lessen useful friendships, and to embarrass and embroil us, in the calamitous scenes of Europe! Confident, fellow-citizens, that you will duly estimate the importance of neutral dispositions towards the observance of neutral conduct, that you will be sensible how much it is our duty to look on the bloody arena spread before us, with commiseration, indeed, but with no other wish than to see it closed, I am persuaded you will cordially cherish these dispositions in all discussions among yourselves, and in all communications with your constituents; and I anticipate, with satisfaction, the measures of wisdom which the great interests now committed to you will give you an opportunity of providing, and myself, that of approving and of carrying into execution with the fidelity I owe to my country.

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TH. JEFFERSON.

The Message was read, and five hundred copies thereof ordered to be printed for the use of the Senate.

TUESDAY, October 18.

PIERCE BUTLER, appointed a Senator by the Legislature of the State of South Carolina, for the unexpired time for which the late John Ewing Colhoun was elected to serve, produced his credentials, which were read, and the oath required by law was administered to him by the President.

JAMES JACKSON, from the State of Georgia, attended.

The credentials of SAMUEL SMITH, a Senator from the State of Maryland, were read.

WEDNESDAY, October 19.

The Senate spent the day in the consideration of Executive business.

THURSDAY, October 20.

The Senate assembled, and, after the consideration of Executive business, adjourned.

FRIDAY, October 21.

JOHN QUINCY ADAMS, appointed a Senator by the Legislature of the State of Massachusetts, for six years, commencing the 4th day of March last, produced his credentials, which were read; and the oath required by law was administered to him by the President.

Mr. WORTHINGTON presented the memorial of Joseph Harrison and others, citizens of the United States, residing in that part of the Indiana Territory which lies north of an east and west line extending through the southerly bend of Lake Michigan, praying that that district may be erected into a separate government; and the memorial was read.

*Ordered*, That it be referred to MESSRS. WORTHINGTON, BRECKENRIDGE, and FRANKLIN, to consider and report thereon.

A message from the House of Representatives informed the Senate that the House concur in the resolution of the Senate, of the 17th instant, for the appointment of Chaplains, and have appointed the Rev. WILLIAM PARKINSON Chaplain to Congress on their part.

Mr. CLINTON, after a few prefatory observations on the necessity of designating the persons, severally, whom the people should wish to hold the offices of President and Vice President of the United States, and stating that the State which he represented, as well as others of the Union, had, through the medium of their Legislatures, strongly recommended the adoption of the principle, laid on the table the following motion, which he read; and it was made the order of the day for the next day, and printed.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring*, That the following amendment be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes, as part of the said Constitution, to wit:

That the third paragraph of the first section of the second article of the Constitution of the United States, in the words following, to wit: "The Electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the President, if such number be a majority of the whole number of Electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of

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them for President; and if no person have a majority, then, from the five highest on the list, the said House shall, in like manner, choose a President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. In every case after the choice of the President, the person having the greatest number of votes of the Electors shall be the Vice President; but, if there should remain two or more who have equal votes, the Senate shall choose from them by ballot the Vice President:—be expunged from the Constitution, and that the following paragraph be inserted in lieu thereof, to wit:

“The Electors shall meet in their respective States and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same State with themselves; they shall name in distinct ballots the person voted for as President, and the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each; which list they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be President, if such number be a majority of the whole number of Electors appointed, and if there be more than one who have such majority, and have an equal number of votes, then the House of Representatives shall immediately choose by ballot one of them for President; and if no person have a majority, then from the — highest on the list, the said House shall, in like manner, choose the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. The person having the greatest number of votes for Vice President shall be Vice President; and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such an equal number; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.”

Mr. BRECKENRIDGE gave notice, that he should, to-morrow, ask leave to bring in a bill to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for other purposes.

SATURDAY, October 22.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House  
of Representatives of the United States:*

In my communication to you of the 17th instant, I informed you that conventions had been entered into with the Government of France for the cession of Loui-

sana to the United States. These, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the First Consul of France in due form, they are communicated to you for consideration in your Legislative capacity. You will observe that some important conditions cannot be carried into execution, but with the aid of the Legislature; and that time presses a decision on them without delay.

The ulterior provisions, also, suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government as time and distance have permitted me to obtain, will be ready to be laid before you in a few days. But, as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not forthwith make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require.

Ocr. 21, 1803. TH. JEFFERSON.

The Message was read, and, together with the papers therein referred to, ordered to lie for consideration.

Agreeably to notice given yesterday, Mr. BRECKENRIDGE had leave to bring in a bill to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for other purposes; which bill was read, and ordered to the second reading. The bill is in the following words:

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territories ceded by France to the United States by the treaty concluded at Paris, on the 30th day of April last, between the two nations; and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the Army and Navy of the United States, and of the force authorized by an act passed the 3d day of March last, entitled “An act directing a detachment from the militia of the United States, and for erecting certain arsenals,” which he may deem necessary: And so much of the sum appropriated by the said act as may be necessary is hereby appropriated for the purpose of carrying this act into effect; to be applied under the direction of the President of the United States.

SEC. 2. *And be it further enacted,* That until Congress shall have made provision for the temporary government of the said territories, all the military, civil, and judicial powers exercised by the officers of the existing government of the same, shall be vested in such person or persons, and shall be exercised by and in such manner, as the President of the United States shall direct.

*Ordered,* That Messrs. TRACY, ANDERSON, and BALDWIN, be a committee for the revival of unfinished business, and that the committee be instructed to report what laws have expired by their own limitation, or will expire during the present session; and report thereon to the Senate.

On motion, that it be

*Resolved,* That the Senate now proceed to the election of a Secretary and other officers of the Senate,

*Ordered,* That this motion lie for consideration.

## AMENDMENT TO THE CONSTITUTION.

The order of the day being called for on Mr. CLINTON's motion of yesterday,

Mr. CLINTON said that, as the resolution was but now printed, and laid before the Senate, it might be proper to refer it to Monday for further consideration, but if it was requisite, by the rules of the Senate, that the resolution must have three separate readings, and on three different days, he should call for a second reading on Saturday, that it might be in readiness for a third reading on Monday, and be ultimately acted upon that day, as the Legislatures of Tennessee and Vermont were in session, and probably must be at the trouble of an extra session to act upon the amendment, unless it could be sent to them before they separated.

Mr. BROWN, of Kentucky, the President *pro tem.* of the Senate, said the written rule of the Senate determined that bills should have three readings, and on different days, without unanimous consent to the contrary; but the resolutions were not included; and that he should be glad of the opinion of the Senate upon the subject.

Mr. TRACY of Connecticut said, that there was no written rule which would reach the case, but the Vice President, upon the ground that they came within the reason of the rule, had determined that all resolutions which required a joint vote of both Houses to give them efficacy, should take the same course as bills, and have three readings, and on different days, before a final vote; and as this resolution went to the alteration of the supreme law of the land, as the Constitution was declared to be, he thought it highly requisite to give the deliberations all the solemnity which was required in passing bills.

Mr. BRADLEY, of Vermont, then offered two amendments to the resolution; one went to the form only, and the other makes a majority of votes of the electors requisite for a choice of Vice President, and in case such majority is not obtained, places the choice of Vice President in the Senate.

Mr. BUTLER, of South Carolina, proposed an amendment by adding a new clause, in substance: "That at the next election of President, no person should be eligible who had served more than eight years, and, in all future elections, no person should be eligible more than four years in any period of eight years."

Mr. DAYTON, of New Jersey, moved to refer the resolution, with all the amendments, to a select committee; he said that it was a subject far too important to be carried in this way. There has been no time to consider it. Something more was due in this instance, than, as it were, offering it one moment, and deciding upon it the next.

Mr. HILLHOUSE, of Connecticut, supported the motion for referring the question to a select committee. He was opposed to entering now upon the business. Why should this subject be hurried? Why not have taken it up last session? we might in that case have had time to consider it. He had not often known a resolution, of the nature of that before the House, disposed of otherwise, in the first

instance, than being referred to a committee. He never knew it refused. In a great and free empire, like the United States, this question is of the highest importance—no less than the choice of the First Magistrate. It is laid upon the table to-day, and we are to determine upon it to-morrow. He hoped not; and as he never knew it refused before, he hoped that it would not be adopted now. He wished it to be referred to a select committee; that it should there be examined, line by line, letter by letter. In the present mode of doing business, it is impossible to act with accuracy. He again trusted and hoped that it would be referred to a select committee.

Mr. JACKSON, of Georgia, wished the business to be immediately proceeded upon. He was an admirer of Mr. Jefferson; he was happy, and he trusted all were happy, while he was President. But, continued Mr. J., we know not who may follow him; we may have a Bonaparte, or one who will be equally obnoxious to the people. He hoped the motions would be incorporated and immediately come before the House.

Mr. WRIGHT, of Maryland, spoke for some time against the resolution going to a committee. He was against the amendment proposed by Mr. BUTLER. A committee might report when they pleased. He therefore thought it necessary to proceed with the question immediately.

Mr. SMITH, of Maryland, wished to have some principles fixed. If the motion and amendments were to go a committee, he would not tack them together, for by this mode they might both be lost. It has been said that the subject might have been entered into last session. There was then a multiplicity of business of importance before the House, yet this subject might have been entered into. As it stands, this is the proper place to make objections. The mover of the resolution does not say that it shall be determined on Monday; he means that it shall then be before the whole House.

Mr. BUTLER observed, in favor of its going to a committee, in order to prevent delay, he would require that they should report on Monday, for, on such an emergency, they might sit on Sunday. This might be adopted, provided it could be got to a committee. He did not think that the House should legislate upon adventitious or extraneous matter, because the Legislature of Vermont or Tennessee, or any other State, were sitting. We are not, for such reasons, to be hurried.

Mr. CLINTON said, he would consent to waive his motion, if the gentleman who moved last would consent that the whole should be entered into on Monday. We are charged, continued Mr. C., with hurrying on this business, but he was not to be intimidated from doing his duty. What was the use of a select committee? He hoped that the resolution and amendments might be printed, and made the order of the day for Monday.

Mr. BUTLER.—I penned my amendment since I came into the House. I believe the country is as ripe for it, as for the resolution, and the other amendments. I believe this business is hurried

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more than it ought to be. If the gentleman who first moved, will take up his motion, I think that he will be the first, on Monday, to condemn this hurry.

Mr. HILLHOUSE again spoke in favor of a committee. He observed that, in case a President should die the day after his election, who then is to supply his place? A man chosen by the electors? No; a man named by the Senate. A man may thus be chosen contrary to the wish of the people. Once it was in contemplation to have no Vice President, but again it was thought that either would make a good President, and he did not see any great use in the office of Vice President. If we are to constitute a Vice President to execute the office of President in case of his death, which will be the case, and if the Senate can elect a President, in such case it may fall upon a man who had only two votes, and the man who had a greater number would be Vice President. We must not pass over, concluded Mr. H., a subject of such importance in this way.

After some desultory observations, in which one member observed that he thought it disorderly, the question on Mr. BUTLER'S amendment was put—ayes 16, nays 15.

A committee was then chosen for the purpose, namely:

Mr. BUTLER, Mr. BRADLEY, Mr. CLINTON, Mr. NICHOLAS, and Mr. SMITH.

#### MONDAY, October 24.

The bill to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for other purposes, was read the second time and referred to Messrs. BRECKENRIDGE, DAYTON, and BALDWIN, to consider and report thereon.

#### AMENDMENT TO THE CONSTITUTION.

Mr. BUTLER, from the committee to whom was referred, on the 22d inst., the motion for an amendment to the Constitution of the United States, made report, which was read.

Mr. DAYTON moved to strike out all which respected the appointment of a Vice President.

He said the great inducements of the framers of the Constitution to admit the office of Vice President was, that, by the mode of choice, the best and most respectable man should be designated; and that the Electors of each State should vote for one person at least, living in a different State from themselves; and if the substance of the amendment was adopted, he thought the office had better be abolished. Jealousies were natural between President and Vice President; no heir apparent ever loved the person on the throne. With this resolution for an amendment to the Constitution we were left with all the inconveniences, without a single advantage from the office of Vice President.

Mr. CLINTON.—The obvious intention of the amendment proposed by the gentleman from New Jersey, is to put off or get rid of the main ques-

tion. It would more comport with the candor of the gentleman to meet the question fairly. Can the gentleman suppose that the Electors will not vote for a man of respectability for Vice President? True, the qualifications are distinct, and ought not to be confounded; this will stave off the question till the Legislatures of the States of Tennessee and Vermont are out of session, and the object must be very obvious.

Mr. DAYTON.—The custom of the gentleman from New Jersey has been of late to arraign motives instead of meeting arguments; on Saturday he accused me of wishing to procrastinate, and now the same is repeated.

The reasons of erecting the office are frustrated by the amendment to the Constitution now proposed; it will be preferable, therefore, to abolish the office.

Mr. CLINTON.—The charge of the gentleman from New Jersey is totally unfounded that I arraign motives, and do not meet arguments. On Saturday, the gentleman accused me of precipitation; I am not in the habit of arraigning motives, as this Senate can witness, and the charge is totally untrue.

Mr. NICHOLAS.—To secure the United States from the dangers which existed during the last choice of President, the present resolution was introduced. It was impossible to act upon, or pass the amendment offered by the member from New Jersey, with a full view of all its bearings at this time. It ought not to stand in the way of the resolution reported by the committee, for two-thirds or three-quarters of the State Legislatures would be in session in two or three months; the Senate had, therefore, better not admit the amendment, even if convinced that it was correct, because it might jeopardize the main amendment of discriminating.

Mr. BUTLER moved a postponement until Wednesday, because the amendment was important, and he had not had sufficient time to make up his mind.

Mr. WORTHINGTON said the same.

This motion was seconded.

Mr. COCKE was opposed to the postponement, because he feared the State Legislatures would be out of session, so as not to carry the amendment into effect before the next choice of President.

Mr. WRIGHT was opposed to the postponement. The proposition of the gentleman from New Jersey was foreign to the first amendment. The people had not expressed an opinion upon it, *pro nor con*, but on the discriminating principle, they had. Whatever his opinion was, he would not vote for this amendment till he knew the voice of the people upon it. Shall we postpone, beyond this session, what we do understand, in order to take up what we do not understand? In a representative Government we ought to act as we think the people wish, and in pursuance to the public mind.

Mr. JACKSON did not know how he should vote on the amendment offered by the gentleman from New Jersey, but was willing to indulge the gentleman who asked for a postponement. What

were the ideas of gentlemen? Were the State Legislatures all about to die? If they were not in session when Congress had acted upon this amendment they could be called together. He remembered that the Vice President was called the fifth wheel to a coach, many years ago, and it might be well, now we are on the subject, to examine whether the office cannot be dispensed with. We have time enough.

Mr. HILLHOUSE.—So important was this subject, that he wished for more time; the gentleman from New York thinks the two offices are very diverse; (here he cited the Constitution, by which the duties of the President devolve on the Vice President in certain cases;) he thought it worthy of mature consideration, if the discriminating principle was introduced into the choice of Vice President, whether the office had not better be abolished.

Mr. TRACY inquired how long the Legislatures of Tennessee and Vermont had been in session; and how long they would probably continue; and supposed a day or two spent in deliberation would not cause much trouble or expense.

Mr. ANDERSON said the Legislature of Tennessee would probably sit till the tenth or fifteenth of November.

Mr. WORTHINGTON said he was opposed to the postponement, and should vote against the amendment, because he was not prepared to act upon it; not knowing what was the opinion of his constituents upon it.

Mr. S. SMITH mentioned that the last choice of President had prepared the people to require the discrimination; but the abolition of the office was new. If the choice of Vice President in the way proposed, should, upon experiment, prove to be improper, then it could be altered.

He was ready to act at once and vote against the amendment, and should not pay so poor a compliment to any gentleman's abilities, as to say he could not make up his mind at once. He was against postponing.

The question for postponement was taken, and lost—ayes 15, noes 16.

The amendment of Mr. DAYTON was now before the Senate.

Mr. ADAMS thought the discriminating principle was well understood; but the consequences had not been fully contemplated; one was, the abolition of the office of Vice President. Whether it was best to abolish or not, he would not say, but to consider it with the other subject was certainly correct, and he wished for longer time.

Mr. MACLAY could not see that any new principle was introduced by the committee; he thought that a suggestion that an improper person would be chosen Vice President was premature; it could not be known till tried.

Mr. BRECKENRIDGE said his mind was made up to vote for nothing but the discriminating principle, so his constituents wished; and he would not go into consideration of any other amendments, but wished this to go into operation before the next election. His opinion was, that the duration of the office in the Senate, (six years,) was the

most anti-republican he could conceive of, but if he moved that and connected it with the discriminating principle, he might lose all; he was against a postponement.

Mr. WHITE was convinced that the members were unprepared to act, and particularly so, by what fell from the member last up, and moved a postponement until to-morrow.

This motion was seconded by Mr. BUTLER.

Mr. CLINTON moved for the yeas and nays upon the question of postponement.

Mr. ANDERSON said, he should vote for the postponement; and as the yeas and nays were called, he would offer the reasons for his vote.

He had long been a member of the Senate, and had never known a postponement denied under similar circumstances. The question was important, and a denial of time to consider it, was, in his opinion, unfair and improper.

Mr. JACKSON would vote as he thought proper, notwithstanding the call for yeas and nays, and if the call had any influence upon him, it was to confirm him in a vote for postponement.

Mr. COCKE would clear his skirts, if gentlemen were determined to reject it in a pet; he should press a vote.

Mr. BUTLER was alarmed at what he saw this day; he wished to take a long and deep view of this subject, and there was not time now, the day was far spent; he rather thought the office of Vice President might be abolished, but he would not commit himself now; he wished for time, not to discredit, by a hasty decision, the States from which the Senate came.

Mr. S. SMITH regretted that a motion for postponement was made, for it has precluded all investigation; if the motion had not been made, a full investigation would have been had, and a postponement till to-morrow would have afforded opportunity to form an opinion with all the arguments in mind.

Mr. DAYTON said that he had already stated to the Senate that he conceived himself impelled by a sense of duty to offer the amendment under consideration for abolishing altogether the office of Vice President, if the change which was proposed to be made in the mode of electing the President should prevail. When gentlemen had considered the subject too important to be decided upon that day, he felt disposed to indulge them with a reasonable time for consideration, and he hoped that the postponement they asked for would be consented to. There existed, Mr. D. said, in the first volume of the Journals of the Senate, a striking monument of the hasty and inconsiderate manner in which amendments might be agreed to by both Houses. He alluded to the first of the twelve amendments, which, it was easy to show, was both absurd and impracticable. It professed to prescribe the ratio of representation for every possible increase of numbers, whereas, instead of effecting that object, it actually contained a positive interdiction of any representation, after our number should exceed eight millions. Extraordinary as it might seem, it was nevertheless most true, that it had been adopted by so many States as to have required



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only one more to have made it a part of our Constitution. Had it unfortunately been adopted, what, Mr. D. asked, would have been our situation, when our numbers amounted to nine millions? There could certainly be no representation in the other branch, consistently with that amendment of the Constitution, for there would either be less than two hundred Representatives, or more than one for every fifty thousand, both of which were then expressly prohibited. What would Congress have done in that case? Would they have permitted a dissolution of the Government, or would they have ventured boldly to have broken the Constitution, and, in the language of the honorable gentleman from Virginia, have thrown themselves upon the people for pardon for the breach, and upon Heaven for forgiveness for the violation of their oaths. This was the distressing, the dreadful dilemma to which the Legislature of the Union were exposed in consequence of their having bestowed too little attention to the amendments which themselves had offered to the people, and it ought surely to operate as a solemn warning upon the present and all future occasions, against proposing any alteration in the Constitution without the most deliberate consideration of its intrinsic merits, as well as of all its consequences and of its bearings upon all the other parts of the same instrument.

While he was on the floor, he would take the liberty of saying that he had not thought proper to answer the honorable member from New York, because his high respect for the Senate restrained him from replying in those terms which were due to such rudeness and such indecency of language as that in which that member had indulged himself. There would be a fitter time and a fitter place for taking that notice of it which it merited.

A motion for adjournment was now made and carried—ayes 16, noes 15.

#### TUESDAY, October 25.

JOHN SMITH, appointed a Senator by the Legislature of the State of Ohio, attended and produced his credentials, which were read, and the oath required by law was administered to him by the President.

Mr. FRANKLIN presented the memorial of Robert Quillin, late a private in the first Virginia regiment, and now on the list of pensioners, praying for an augmentation of his pension; and the memorial was read, and ordered to lie on the table.

Mr. BRECKENRIDGE, from the committee to whom was referred, on the 24th instant, the bill to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for other purposes, reported it without amendment.

*Ordered*, That this bill pass to a third reading.

The PRESIDENT communicated the report of the Secretary for the Department of Treasury, prepared in obedience to the directions of the act, entitled "An act to establish the Treasury Department;" which was read, and the report and

the papers accompanying it ordered to be printed for the use of the Senate.

The resolution to amend the Constitution was called up, and Mr. WRIGHT moved a postponement, till to-morrow, alleging that as Mr. CLINTON was gone home, there could not be any necessity for hurrying a vote; but as Mr. CLINTON was obliged to go home, and had brought forward the resolution by instruction from the Legislature of his State, he (Mr. WRIGHT) had thought it his duty to press a vote, so that Mr. CLINTON might have an opportunity to give his vote; but the gentleman having now gone, he was willing to afford time for considering this important question.

It was postponed accordingly.

The motion made on the 22d instant, "that the Senate now proceed to the election of a Secretary and other officers of the Senate," was resumed; and on the question, will the Senate proceed to the consideration thereof, it passed in the negative.

#### WEDNESDAY, October 26.

The bill to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for other purposes; was read the third time. And, on the question, Shall this bill pass? it was determined in the affirmative—yeas 26, nays 6, as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Butler, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, I. Smith, J. Smith, S. Smith, Stone, Taylor, Wells, White, Worthington, and Wright.

NAYS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, and Tracy.

And the title having been amended,

*Resolved*, That this bill pass; that it be engrossed; and that the title thereof be "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof."

#### THURSDAY, October 27.

Mr. WORTHINGTON, from the committee to whom was referred, on the 21st instant, the memorial of Joseph Harrison and others, made a report; which was read, and ordered to lie for consideration.

Mr. WORTHINGTON also presented the petition of Martha Seamans and others, praying to be admitted to the benefits of the act, entitled "An act in addition to the act, entitled 'An act regulating the grants of land appropriated for the refugees from the British provinces of Canada and Nova Scotia,'" and the petition was read, and referred to Messrs. WORTHINGTON, FRANKLIN, and WELLS, to consider and report thereon.

A motion was made that the Senate adopt the following resolution, viz:

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*Resolved*, That a committee be appointed to prepare the process to compel the attendance of John Pickering, to answer the charge exhibited against him by the House of Representatives at their last session."

*Ordered*, That this motion lie on the table.

Mr. LOGAN presented the memorial and petition of the Illinois and Ouabache Land Companies, praying that the memorial presented by them at the last session of Congress, may be resumed and acted on; and the memorial was read, and ordered to lie on the table.

On motion, the resolution proposed on the 22d instant, that the Senate now proceed to the election of a Secretary, and other officers of the Senate, was resumed; and, on motion, the further consideration thereof was postponed until the first Monday in October next.

FRIDAY, October 28.

A message from the House of Representatives informed the Senate that the House have passed the bill, sent from the Senate, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof," with amendments; in which they desire the concurrence of the Senate. They have passed a resolution for an amendment to the Constitution of the United States; in which they desire the concurrence of the Senate.

The papers last brought up from the House of Representatives were read, and ordered to lie for consideration.

SATURDAY, October 29.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof." Whereupon,

*Resolved*, That they disagree to the said amendments, ask a conference thereon, and that Messrs. BRECKENRIDGE and DAYTON be the managers at the conference on the part of the Senate.

A message from the House of Representatives informed the Senate that the House of Representatives have passed a bill, entitled "An act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United States of America and the French Republic, and making provision for the payment of the same;" also, a bill, entitled "An act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic;" in which bills they

desire the concurrence of the Senate. They insist on their amendments to the bill, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof;" and agree to the conference desired by the Senate on the subject-matter of the said amendments, and have appointed managers on their part.

The two bills brought up for concurrence were read, and ordered to the second reading.

Mr. BRECKENRIDGE, from the committee of conference on the amendments of the House of Representatives to the bill, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the 30th of April last, and for the temporary government thereof," reported, that the Senate recede from their disagreement to the amendments, and agree thereto, with amendments; and a division of the report was called for.

And, on the question to adopt the report, so far as that the Senate recede from their disagreement to the amendments of the House of Representatives, it passed in the affirmative.

And, on the question to adopt the remaining division of the report, it passed in the negative.

So it was *Resolved*, That the Senate recede from their disagreement to the amendments of the House of Representatives to the said bill, and agree thereto.

MONDAY, October 31.

On motion, it was

*Resolved, unanimously*, That the members of the Senate, from a sincere desire of showing every mark of respect due to the memory of the Hon. STEVENS THOMPSON MASON, deceased, late a member thereof, will go into mourning for him one month, by the usual mode of wearing a crape around the left arm.

On motion, that it be

*Resolved*, That the Senate is penetrated with the full sense of the merit and patriotism of the late SAMUEL ADAMS and EDMOND PENDLETON, deceased, and that the members thereof, do wear a crape, on the left arm for one month, in testimony of the national gratitude and reverence towards the memory of those illustrious patriots.

And, on the question to agree to the resolution, it passed in the affirmative—yeas 21, nays 10; as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Breckenridge, Brown, Butler, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, I. Smith, S. Smith, Stone, White, Worthington, and Wright.

NAYS—Messrs. Adams, Bradley, Dayton, Hillhouse, Olcott, Pickering, Plumer, John Smith, Tracy, and Wells.

The bill, entitled "An act authorizing the creation of a stock to the amount of \$11,250,000, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United

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States and the French Republic, and making provision for the payment of the same," was read the second time and referred to Messrs. JACKSON, S. SMITH, and BALDWIN, to consider and report thereon.

The bill, entitled "An act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic," was read the second time, and referred to the committee last named, to consider and report thereon.

TUESDAY, November 1.

Mr. JACKSON, from the committee to whom was referred the bill, entitled "An act authorizing the creation of a stock to the amount of \$11,250,000, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United States and the French Republic, and making provision for the payment of the same;" and to whom also was referred the bill, entitled "An act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the 30th of April 1803, between the United States and the French Republic," reported, that the said bills severally pass without amendment.

*Ordered*, That the bill last mentioned pass to the third reading.

Mr. WORTHINGTON presented the petition of John Crouse, and others, residents and purchasers of lands in the State of Ohio, praying for certain alterations in the existing laws of the United States, respecting the sale of the public lands; and the petition was read.

*Ordered*, That it be referred to a committee, to consist of five members, with instructions to inquire if any, and, if any, what, alterations, are necessary in the laws of the United States providing for the sale of the public lands, and that they have leave to report by bill or otherwise; and that Messrs. TRACY, WORTHINGTON, BRECKENRIDGE, BALDWIN, and FRANKLIN, constitute this committee.

The Senate resumed the consideration of the bill, entitled "An act authorizing the creation of a stock to the amount of \$11,250,000, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United States of America and the French Republic, and making provision for the payment of the same;" and, after debate,

*Ordered*, That the consideration thereof be postponed.

The following report was taken into consideration:

The committee to whom was referred the memorial of Joseph Harrison and others, resident in that part of the Indiana Territory which lies north of an east and west line, extending through the southerly extreme of Lake Michigan, report,

That it appears from the census taken under the authority of the United States in the year 1800, the territory above described contained three thousand nine hundred and seventy-two free white inhabitants at that time.

It also appears, from the best information that the committee have been able to obtain, that these inhabitants are separated from the other settlements of the Indiana Territory, by a tract of the Indian country, at least three hundred and fifty miles in extent; and that Vincennes, the seat of Government of the Indiana Territory, and place of residence of the Governor and other officers appointed to govern the same, is still more distant.

The committee are of opinion, that the local situation of the inhabitants of Detroit, and of the adjacent settlements, requires the special attention of the General Government, for reasons too obvious to every one, who will examine their geographical situations, to be enumerated.

On the one side, their settlements adjoin to, and are bounded by, the British Province of Canada; and on the other sides, are wholly encompassed by Indian tribes. Thus situated, and in a quarter so interesting to the Union, it is the opinion of the committee, that every accommodation and arrangement which would tend to populate and strengthen that quarter, and thereby enable the General Government with the least expense to maintain good order, ought to be extended to them. Were even these considerations without any weight, the committee conceive that the unreasonable delays and difficulties which must necessarily exist in the administration of justice, and the other concerns of these inhabitants, detached as they are from Vincennes, the residence of the Governor and other principal officers of the Territory, require that a separate territorial government should be extended to them. Under these impressions your committee respectfully submit the following resolution:

*Resolved*, That the prayer of the memorial of Joseph Harrison and others ought to be granted, and that all that portion of the Indiana Territory which lies north of a line drawn east from the southernmost extreme of Lake Michigan, until it intersects Lake Erie, and west from the said southernmost extreme of Lake Michigan until it shall intersect the Mississippi river, shall form a separate Territory, and that the said Territory shall, in all respects, be governed by, and according to, the principles and regulations contained in "An ordinance for the Government of the Territory of the United States Northwest of the river Ohio," passed on the 13th day of July, 1787."

And the report was adopted.

*Ordered*, That the committee who made the report be instructed to prepare and bring in a bill accordingly.

A motion was made, that it be,

*Resolved*, That the sixth section of the seventh article of the Constitution of the State of Ohio be referred to a committee, to consist of — members, with instructions to examine and report thereon, by bill or otherwise.

And it was agreed that this motion lie for consideration.

WEDNESDAY, November 2.

On motion, it was agreed that the motion made yesterday for a committee to examine the seventh

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article of the Constitution of the State of Ohio be withdrawn; and that the following resolution be adopted:

*Resolved*, That the proposition of the convention of the State of Ohio to the Congress of the United States of America, contained in the sixth section of the seventh article of the constitution of that State, be referred to a committee, with leave to report thereon by bill or otherwise.

*Ordered*, That it be referred to Messrs. WORTHINGTON, BRECKENRIDGE, and FRANKLIN, the committee who, on the 21st of October last, had under consideration the petition of Joseph Harrison and others, to consider and report thereon to the Senate.

The bill, entitled "An act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States by virtue of the convention of the 30th of April, 1803, between the United States and the French Republic," was read the third time, and passed.

On motion,

"That a committee be appointed to confer with the Postmaster General on the expediency or inexpediency of extending and furthering the carriage of the mail of the United States in covered or stage carriages."

*Ordered*, That this motion lie for consideration.

## LOUISIANA TREATY.

The Senate resumed the second reading of the bill, entitled "An act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United States of America and the French Republic, and making provision for the payment of the same;" and having amended the bill—

On the question, Shall the bill pass?

Mr. WHITE moved that the further consideration of the bill be postponed until the second Monday in December next, stating as the ground of the motion he had the honor to make, that the question was then involved in much difficulty and doubt. He could not accede to the immediate passage of the bill—that by the day he had named the Senate would be able to act more understandingly on the subject, as it would then probably be ascertained whether we are likely to obtain the quiet possession of New Orleans and Louisiana under the treaty or not, and there would still remain a great sufficiency of time to make the necessary provisions on our part for carrying the treaty into execution, if it should be deemed necessary.

The motion for postponement being stated,

Mr. WHITE rose and made the following remarks:

Mr. President, by the provisions of the bill before us, and which are thus far in conformity with the words of the treaty, we have until three months after the exchange of ratifications and the delivery of possession to pay this money in. Where, then, is the necessity for such haste on this subject? It seems to me to be anticipating

our business unnecessarily, and perhaps unwisely; it is showing on our part a degree of anxiety that may be taken advantage of and operate to our injury, and that may serve to retard the accomplishment of the very object that gentlemen seem to have so much at heart. It is not at present altogether certain that we shall ever have occasion to use this stock, and it will be time enough to provide it when the occasion arises, when we see ourselves in the undisturbed possession of this mighty boon, or wherefore are we allowed these three months credit after the delivery of possession? The ratifications have been already exchanged; the French officer who is to make the cession is said to be at New Orleans, and previous to the adjournment of Congress we shall know with certainty whether the First Consul will or can carry this treaty faithfully into operation. We have already passed a bill authorizing the President to take possession, for which I voted, and it will be time enough to create this stock and to make the other necessary arrangements when we find ourselves in possession of the territory, or when we ascertain with certainty that it will be given to us.

But, Mr. President, it is now a well known fact, that Spain considers herself injured by this treaty, and if it should be in her power to prevent it, will not agree to the cession of New Orleans and Louisiana to the United States. She considers herself absolved from her contract with France, in consequence of the latter having neglected to comply with certain stipulations in the Treaty of St. Ildefonso, to be performed on her part, and of having violated her engagement never to transfer this country into other hands. Gentlemen may say this money is to be paid upon the responsibility of the President of the United States, and not until after the delivery of possession to us of the territory; but why cast from ourselves all the responsibility upon this subject and impose the whole weight upon the President, which may hereafter prove dangerous and embarrassing to him? Why make the President the sole and absolute judge of what shall be a faithful delivery of possession under the treaty? What he may think a delivery of possession sufficient to justify the payment of this money, we might not; and I have no hesitation in saying that if, in acquiring this territory under the treaty, we have to fire a single musket, to charge a bayonet, or to lose a drop of blood, it will not be such a cession on the part of France as should justify to the people of this country the payment of any, and much less so enormous a sum of money. What would the case be, sir? It would be buying of France authority to make war upon Spain; it would be giving the First Consul fifteen millions of dollars to stand aloof until we can settle our differences with His Catholic Majesty. Would honorable gentlemen submit to the degradation of purchasing even his neutrality at so inconvenient a price? We are told that there is in the hands of the French Prefect at New Orleans a royal order of His Catholic Majesty, founded upon the Treaty of St. Ildefonso, for the delivery of possession of this

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territory to France; but which has never been done—the precedent conditions not having been performed on the part of France. This royal order, it is probable, will be handed over to our Commissioner, or to whoever may be sent down to receive possession. We may then be told that we have the right of France, as she acquired it from Spain, which is all she is bound by her treaty to transfer to us; we may be shown the Spaniards, who yet claim to be the rightful owners of the country, and be told that we have the permission of the First Consul to subdue or drive them out, and, according to the words of the treaty, to take possession. Of our capacity to do so I have no doubt; but this we could have done, sir, six months ago, and with one-sixth of fifteen millions of dollars, when they had wantonly violated the sacred obligations of a treaty, had insulted our Government, and prostrated all the commerce of our Western country. Then we had, indeed, a just cause for chastising them; the laws of nations and of honor authorized it, and all the world would have applauded our conduct. And it is well known that if France had been so disposed she could not have brought a single man or ship to their relief; before the news could have reached Europe, she was blockaded in her own ports by the British fleets. But that time was permitted to go by unimproved, and instead of regretting the past, let us provide for the future.

Admitting then, Mr. President, that His Catholic Majesty is hostile to the cession of this territory to the United States, and no honorable gentleman will deny it, what reasons have we to suppose that the French Prefect, provided the Spaniards should interfere, can give to us peaceable possession of the country? He is acknowledged there in no public character, is clothed with no authority, nor has he a single soldier to enforce his orders. I speak now, sir, from mere probabilities. I wish not to be understood as predicting that the French will not cede to us the actual and quiet possession of the territory. I hope to God they may, for possession of it we must have—I mean of New Orleans, and of such other positions on the Mississippi as may be necessary to secure to us forever the complete and uninterrupted navigation of that river. This I have ever been in favor of; I think it essential to the peace of the United States, and to the prosperity of our Western country. But as to Louisiana, this new, immense, unbounded world, if it should ever be incorporated into this Union, which I have no idea can be done but by altering the Constitution, I believe it will be the greatest curse that could at present befall us; it may be productive of innumerable evils, and especially of one that I fear even to look upon. Gentlemen on all sides, with very few exceptions, agree that the settlement of this country will be highly injurious and dangerous to the United States; but as to what has been suggested of removing the Creeks and other nations of Indians from the eastern to the western banks of the Mississippi, and of making the fertile regions of Louisiana a howling wilderness, never to be trodden by the foot of civilized man, it is

impracticable. The gentleman from Tennessee (Mr. COCKE) has shown his usual candor on this subject, and I believe with him, to use his strong language, that you had as well pretend to inhibit the fish from swimming in the sea as to prevent the population of that country after its sovereignty shall become ours. To every man acquainted with the adventurous, roving, and enterprising temper of our people, and with the manner in which our Western country has been settled, such an idea must be chimerical. The inducements will be so strong that it will be impossible to restrain our citizens from crossing the river. Louisiana must and will become settled, if we hold it, and with the very population that would otherwise occupy part of our present territory. Thus our citizens will be removed to the immense distance of two or three thousand miles from the capital of the Union, where they will scarcely ever feel the rays of the General Government; their affections will become alienated; they will gradually begin to view us as strangers; they will form other commercial connexions, and our interests will become distinct.

These, with other causes that human wisdom may not now foresee, will in time effect a separation, and I fear our bounds will be fixed nearer to our houses than the waters of the Mississippi. We have already territory enough, and when I contemplate the evils that may arise to these States, from this intended incorporation of Louisiana into the Union, I would rather see it given to France, to Spain, or to any other nation of the earth, upon the mere condition that no citizen of the United States should ever settle within its limits, than to see the territory sold for an hundred millions of dollars, and we retain the sovereignty. But however dangerous the possession of Louisiana might prove to us, I do not presume to say that the retention of it would not have been very convenient to France, and we know that at the time of the mission of Mr. Monroe, our Administration had never thought of the purchase of Louisiana, and that nothing short of the fullest conviction on the part of the First Consul that he was on the very eve of a war with England; that this being the most defenceless point of his possessions, if such they could be called, was the one at which the British would first strike, and that it must inevitably fall into their hands, could ever have induced his pride and ambition to make the sale. He judged wisely, that he had better sell it for as much as he could get than lose it entirely. And I do say that under existing circumstances, even supposing that this extent of territory was a desirable acquisition, fifteen millions of dollars was a most enormous sum to give. Our Commissioners were negotiating in Paris—they must have known the relative situation of France and England—they must have known at the moment that a war was unavoidable between the two countries, and they knew the pecuniary necessities of France and the naval power of Great Britain. These imperious circumstances should have been turned to our advantage, and if we were to purchase, should have

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lessened the consideration. Viewing, Mr. President, this subject in any point of light—either as it regards the territory purchased, the high consideration to be given, the contract itself, or any of the circumstances attending it, I see no necessity for precipitating the passage of this bill; and if this motion for postponement should fail, and the question on the final passage of the bill be taken now, I shall certainly vote against it.

Mr. JACKSON rose, and was replying at length to Mr. WHITE, when he was called to order by the Chair, as having departed from the question of postponement, in which decision, notwithstanding Mr. WHITE had also departed, and some members expressed a wish that Mr. J. should proceed, he immediately acquiesced, and sat down.

The further consideration of the bill was postponed until to-morrow.

THURSDAY, November 3.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty," in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

#### LOUISIANA TREATY.

The bill, entitled "An act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the 30th of April, 1803, between the United States of America and the French Republic, and making provision for the payment of the same," was read the third time; and, having been amended, on the question, Shall this bill pass as amended?

Mr. WELLS said: Mr. President, having always held to the opinion that, when a treaty was duly made under the constituted authorities of the United States, Congress was bound to pass the laws necessary to carry it into effect; and as the vote which I am about to give may not at first seem to conform itself to this opinion, I feel an obligation imposed upon me to state, in as concise a manner as I can, the reasons why I withhold my assent from the passage of this bill.

There are two acts necessary to be performed to carry the present treaty into effect—one by the French Government, the other by our own. They are to deliver us a fair and effectual possession of the ceded territory; and then, and not till then, are we to pay the purchase money. We have already authorized the President to receive possession. This co-operation on our part was requisite to enable the French to comply with the stipulation they had made; they could not deliver unless somebody was appointed to receive. In this view of the subject, the question which presents itself to my mind is, who shall judge whether the French Government does, or does not, faithfully comply with the previous condition?

The bill on your table gives to the President this power. I am for our retaining and exercising it ourselves. I may be asked, why not delegate this power to the President? Sir, I answer by inquiring why we should delegate it? To us it properly belongs; and, unless some advantage will be derived to the United States, it shall not be transferred with my consent. Congress will be in session at the time that the delivery of the ceded territory takes place; and if we should then be satisfied that the French have executed with fidelity that part of the treaty which is incumbent upon them first to perform, I pledge myself to vote for the payment of the purchase money. This appears to me, arguing upon general principles, to be the course which ought to be pursued, even supposing there were attending this case no particular difficulties. But in this special case are there not among the archives of the Senate sufficient documents, and which have been withheld from the House of Representatives, to justify an apprehension that the French Government was not invested with the capacity to convey this property to us, and that we shall not receive that kind of possession which is stipulated for by the treaty? I am not permitted, by the order of this body, to make any other than this general reference to those documents. Suffice it to say that they have strongly impressed me with an opinion that, even if possession is rendered to us, the territory will come into our hands without any title to justify our holding it. Is there not on the face of this instrument itself some marks of suspicion? You find in the treaty not a single word relating to any substantial consideration to be paid by the United States. It says that the "First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, forever and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned treaty concluded with His Catholic Majesty." It is true you perceive in the ninth article of the treaty a general reference to two conventions, signed at the same time with the treaty, which respect the payment of money by the United States to France, and which we regard as the only consideration for the territory ceded to us. Let us attend to the words of this article:

"The particular convention, signed this day by the respective Ministers, having for its object to provide for the payment of debts due to the citizens of the United States by the French Republic, prior to the 30th September, 1800, is approved, and to have its execution in the same manner as if it had been inserted in this present treaty, and it shall be ratified in the same form and in the same time, so that the one shall not be ratified distinct from the other.

"Another particular convention, signed at the same time time as the present treaty, relative to a definitive rule between the contracting parties, is in the like manner approved, and will be ratified in the same form, and in the same time, and jointly."

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It is to be observed that the latter part of this article refers to that convention which stipulates for the payment of money to the French Government. But who, I ask, could understand it in this way? The convention here referred to, is said to be "relative to a definitive rule between the contracting parties." Why these dark, obscure, and unintelligible expressions? Is a consideration a "definitive rule?" The first article speaks of the cession as being made, "from a desire to give to the United States a strong proof of the friendship of the First Consul," and when you turn to the convention, which is said to establish the "definitive rule," you find a provision binding the United States to the payment of money to the French Republic, but not a word is said about its being the consideration of the cession. Suspicion hangs over the whole of this business. If the territory is, beyond all doubt, to be put quietly and peaceably into our hands, whence the necessity of sending down to receive it an imposing force? Admit that a nominal possession of the territory has been given by the Spaniards to the French, the latter it is well known have not a single soldier at any of the posts. Suppose, upon the arrival of our troops, the Spanish forces should refuse to obey the orders of the French Prefect, who then can only give you possession by the twig of a tree or the knob of a door; your army left to possess itself of the fortifications as it can, is half destroyed ere resistance by the Spaniards is overcome. In that case, shall we be willing to pay the whole amount of the fifteen millions of dollars? I trust not. If however we pass this bill, we shall have no control over the subject. We have already strong reasons for doubting the validity of the French title to the territory in question: suppose our doubts should be confirmed before the payment of this money, will you then consent to pay any part of it for what you will not be able to hold? I conceive, therefore, that I am fully justified in withholding my assent from the passage of this bill, seeing that no advantage can result from delegating this power to the President; that it may be, without inconvenience, exercised by ourselves, as we shall remain for some time in session; that even in common cases the unnecessary delegation of power is not to be justified; and that, in this particular instance, circumstances exist of a very extraordinary nature, which render it peculiarly improper.

MR. JACKSON.—MR. PRESIDENT: In answering the honorable gentlemen who has just sat down, I shall take the liberty of commencing, with repeating what I said yesterday, in answer to another honorable gentleman from Delaware, (MR. WHITE,) that every argument they have made use of would better have applied at the time the treaty was on its passage for ratification, or at the time of the passage of the bill for taking possession of Louisiana; and it appears extraordinary now, after voting, if not for the treaty, for that bill, to see those gentlemen rise to oppose the conditions to be performed on our part, when France has issued the necessary orders to comply, on her part. The delay of the passage of the bill before

you may have the most fatal consequences; and if, as some gentlemen have hinted on former occasions, the French are sick of their bargain, will give them an opportunity to break it altogether, or create such jealousies between the two nations as may render the ceded territory and its inhabitants of little value to us. In my opinion, policy, as well as justice, requires, that we should comply with the stipulations on our part, promptly and with good faith, and leave no opening for complaint with the other party. We shall then stand justified in the eyes of the world, and to ourselves, not only to take, but keep possession of this immense country, let what nation will oppose it.

But the honorable gentleman (MR. WELLS) has said that the French have no title, and, having no title herself, we can derive none from her. Is not, I ask, the King of Spain's proclamation, declaring the cession of Louisiana to France, and his orders to his Governor and officers to deliver it to France, a title? Do nations give any other? I believe the honorable gentleman can find no solitary instance of feofment or conveyance between States. The Treaty of St. Ildefonso was the groundwork of the cession, and whatever might have been the terms to be performed by France, the King of Spain's proclamation and orders have declared to all the world that they were complied with. The honorable gentleman, however, insists that there is no consideration expressed in the treaty, and therefore it must be void; if the honorable gentleman will but look attentively at the ninth article, I am persuaded he will perceive one: the conventions are made part of the treaty; they are declared to have execution in the same manner, as if they had been inserted in the treaty; they are to be ratified in the same form, and in the same time, so that the one shall not be distinct from the other. What inference can possibly be drawn, but that the payments to be made by them was full consideration for Louisiana? But the honorable gentleman lays stress on that part of the treaty which declares that "the First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the United States the territory," &c.; inferring from thence that our title rests on the friendship of Bonaparte alone. Sir, let my opinion of the present Government of France be what it may, and I confess it is not very favorable, Bonaparte, by the consent of the nation, is placed at its head; he is the organ through which the will of the nation is expressed, and is and must be respected as such by all other Powers. No nation has a right to interfere with the rule or police of another. It is enough that the nation wills it, and Bonaparte's act is the act of the whole nation, which cannot recall it, even if Bonaparte should cease to govern, and another form of Government be adopted. But, sir, admitting the objection of the honorable gentleman, in its utmost latitude, as to pecuniary considerations; are there no other considerations among Powers and Potentates? Does not policy sometimes induce a cession of territory to prevent a

larger portion from being sacrificed? Is not the establishment of a Monarch's connexions sometimes an object and consideration for a cession? The very instance before us is a convincing proof—the establishment of the King of Etruria in Italy. Honorable gentlemen have, however, whenever the treaty has been the subject of debate, expressed their fears that the Treaty of Ildefonso has not been complied fully with by France; that Spain will keep possession, and that we shall be involved in war with that Power. The King of Spain's proclamation fully satisfies me on that head, and I hope, and believe, he will be more prudent than in existing circumstances to involve himself in war with us. The English nation, after the handsome letter of Lord Hawkesbury to our Minister, Mr. King, expressing the approval of His Britannic Majesty of the treaty, cannot, in decency, interfere; and Bonaparte is bound in honor and good faith, to protect us in the possession of that country; disgrace would cover him and his nation if he took any part against us. Whom, then, should we have to contend with? With the bayonets of the intrepid French grenadiers, as the honorable gentleman from Delaware, last session, told us, or with the enervated, degraded, and emaciated Spaniards? Shall we be told now that we are no match for these emaciated beings? Last session we were impressed with the necessity of taking immediate possession of the island of New Orleans in the face of two nations, and now we entertain doubts if we can combat the weakest of those Powers; and we are further told we are going to sacrifice the immense sum of fifteen millions of dollars, and have to go to war with Spain, for the country, afterwards; when, last session, war was to take place at all events, and no costs were equal to the object. Gentlemen seem to be displeased, because we have procured it peaceably, and at probably ten times less expense than it would have cost us had we taken forcible possession of New Orleans alone, which, I am persuaded, would have involved us in a war, which would have saddled us with a debt of from one to two hundred millions, and perhaps have lost New Orleans, and the right of deposit, after all. I again repeat, sir, that I do not believe that Spain will venture war with the United States. I believe she dare not; if she does, she will pay the costs. The Floridas will be immediately ours; they will almost take themselves. The inhabitants pant for the blessings of your equal and wise Government; they ardently long to become a part of the United States. An officer, duly authorized and armed with the bare proclamation of the President, would go near to take them; the inhabitants by hundreds would flock to his standard, the very Spanish force itself would assist in their reduction; it is composed principally of the Irish brigade and Creoles—the former disaffected, and the latter the dregs of mankind. With two or three squadrons of dragoons, and the same number of companies of infantry, not a doubt ought to exist of the total conquest of East Florida by an officer of tolerable talents. Exclusive, however, of the loss of the

Floridas, to use the language of a late member of Congress, the road to Mexico is now open to us, which, if Spain acts in an amicable way, I wish may, and hope will, be shut, as respects the United States forever. For these reasons, I think, sir, Spain will avoid a war, in which she has nothing to gain and everything to lose. But what possession, say the honorable gentlemen, are we to receive, the twig of a tree or the knocker of a door? No, sir, I reply; but possession of New Orleans, the capital, and its defence. By whom, will the honorable gentleman ask? I answer, the same men who the honorable gentlemen were so anxious to send forward and take forcible possession the last session, which could not have failed to involve us with the French, for, if we had succeeded and taken possession, whose territory should we have violated? Spain was barely the tenant, at will, of France, and France the real owner. If, in private life, I were to enter a house the honorable gentleman had purchased, and kick his tenant out, would he not feel aggrieved and seek redress? So would France, if we had rashly taken the measures proposed, and what should we have had then to do? Fling ourselves at once into the arms of Britain for protection. Is this what honorable gentlemen wish? It cannot be. I hope, Mr. President, that the citizens of the United States will never see the day when their defence shall depend on a British army or navy, or the army or navy of any other Power on earth. We are happily divided from the distractions and tumults of the Eastern world by the Atlantic Ocean, and I trust we shall steer clear of entangling alliances with any of them.

Mr. President, the honorable gentleman appears to be extremely apprehensive of vesting the powers delegated by the bill, now on its passage, in the President, and wishes to retain it in the Legislature. Is this a Legislative or an Executive business? Assuredly, in my mind, of the latter nature. The President gave instructions for, and, with our consent, ratified the treaty. We have given him the power to take possession, which his officers are, perhaps, at this moment doing; and surely, as the ostensible party, the representative of the sovereignty to whom France will alone look, he ought to possess the power of fulfilling our part of the contract. Gentlemen, indeed, had doubted, on a former occasion, the propriety of giving the President the power of taking possession and organizing a temporary government, which every inferior officer, in case of conquest or cession, from the general to the subaltern, if commanding, has a right to do; but I little expected these doubts, after we had gone so far. For my part, sir, I have none of those fears. I believe the President will be as cautious as ourselves, and the bill is as carefully worded as possible; for the money is not to be paid until after Louisiana shall be placed in our possession.

Sir, it has been observed by a gentleman in debate yesterday, (Mr. WHITE,) that Louisiana would become a grievance to us, and that we might as well attempt to prevent fish from swimming in water, as to prevent our citizens from going across



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the Mississippi. The honorable gentleman is not so well acquainted with the frontier citizens as I am. I see an honorable gentleman in my view, who knows whether or not what I am going to assert be the fact—he was part of the time high in office, (Mr. PICKERING.) The citizens of the State I represent, scattered along an Indian frontier of from three to four hundred miles, have been restrained, except with one solitary instance, by two or three companies of infantry and a handful of dragoons, from crossing over artificial lines and water-courses, sometimes dry, into the Indian country, after their own cattle, which no human prudence could prevent from crossing to a finer and more luxuriant range, and this too at a time when the feelings of Georgians were alive to the injuries they had received by the New York Treaty with the Creek Indians, which took Tallassee county from them, after even three Commissioners appointed by the United States had reported to the President that it was *bona fide* the property of Georgia, and sold under as fair a contract as could be formed by a civilized with an uncivilized society. If the Georgians, under these circumstances, were restrained from going on their ground, cannot means be devised to prevent citizens crossing into Louisiana? The frontier people are not the people they are represented; they will listen to reason, and respect the laws of their country; it cannot be their wish, it is not their interest to go to Louisiana, or see it settled for years to come; the settlement of it at present would part father and son, brother and brother, and friend and friend, and lessen the value of their lands beyond all calculation. If Spain acts an amicable part, I have no doubt myself but the Southern tribes of Indians can be persuaded to go there; it will be advantageous for themselves; they are now hemmed in on every side; their chance of game decreasing daily; ploughs and looms, whatever may be said, have no charms for them; they want a wider field for the chase, and Louisiana presents it. Spain may, in such case, discard her fears for her Mexican dominions, for half a century at least; and we should fill up the space the Indians removed from, with settlers from Europe, and thus preserve the density of population within the original States. For, sir, I will agree with the honorable gentleman, (Mr. WHITE,) that it will be as impossible to prevent fish in the water from swimming, as to prevent the distressed of every country from flying to this asylum of the oppressed of the human race. They will come from the ambitious and distracted States of Europe to our mild and happy Government, if they commit themselves to the mercy of the ocean, or on a few planks nailed together. In a century, sir, we shall be well populated, and prepared to extend our settlements, and that world of itself will present itself to our approaches, and instead of the description given of it by the honorable gentleman, of making it a howling wilderness, where no civilized foot shall ever tread, if we could return at the proper period we should find it the seat of science and civilization.

Mr. President, in whatever shape I view this

bill, I conceive it all-important that it should pass without a moment's delay. We have a bargain now in our power, which, once missed, we never shall have again. Let us close our part of the contract by the passage of this bill, let us leave no opportunity for any Power to charge us with a want of good faith; and having executed our stipulations in good faith we can appeal to God for the justice of our cause; and I trust that, confiding in that justice, there is virtue, patriotism, and courage sufficient in the American nation, not only to take possession of Louisiana, but to keep that possession against the encroachments or attacks of any Power on earth.

Mr. WRIGHT—Mr. President, I presumed, from the observations of the honorable gentleman from Delaware (Mr. WELLS,) that he had not minutely attended to the provisions of this bill, on which the transfer of this stock is made expressly to depend. The treaty has in the most guarded manner secured us in the possession of the ceded territory, as a condition precedent the payment of the purchase money, and this bill has expressly provided that no part of the stock shall be transferred till the possession stipulated by the treaty shall have been obtained. Not such a possession as the gentlemen has said the President may be satisfied with—"the delivery of a twig and turf, or the knocker of a door." The treaty has defined the possession intended, it is the possession of Louisiana, the island and city of New Orleans, with the forts and arsenals, the troops having been withdrawn from thence. But, sir, from his remarks, it would seem that his objections to this bill had been predicated on his want of confidence in the Executive, as he has expressed his fears that the stock would be transferred, before the pre-requisite conditions had been performed. He says, we ought to be satisfied that the possession stipulated by the treaty shall have been delivered up before we pass this bill. Has he forgot that, by the Constitution, the President is to superintend the execution of the law? Or has he forgot that treaties are the supreme law of the land? Or why, while he professes to respect this Constitution, does he oppose the commission of the execution of this law to that organ of the Government to which it has been assigned by the Constitution? Why, I ask, does he distrust the President? Has he not been throughout the whole of this business very much alive to the peaceful acquisition of this immense territory, and the invaluable waters of the Mississippi? A property which, but the other day, we were told was all-important, and so necessary to our political existence that if it was not obtained the Western people would sever themselves from the Union. This property, for which countless millions were then proposed to be expended, and the best blood of our citizens to be shed, and which then was to be had at all hazards, *per fas aut per nefas*, seems now to have lost its worth, and it would seem as if some gentlemen could not be satisfied with the purchase, because our title was not recorded in the blood of its inhabitants. But that this is not the wish of the American people, has been unequivocally declared by their immediate representatives

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in Congress, as well as by this House, who had each expressed their approbation of the peaceful title we had acquired, by majorities I thought not to be misunderstood. And the gentleman, although he voted for the ratification of the treaty, now again calls on us to investigate the title. It is certainly too late. But I ask, if he was not possessed of the most satisfactory evidence of the title, why he consented to the ratification of the treaty? Does he not know that France, the original proprietor, ceded it to Spain? Does he not know that Spain retroceded it to France, in exchange for Tuscany, which is now held as the kingdom of Etruria, by the King of Etruria, the relative of His Catholic Majesty, by virtue of that exchange? Does he not know that Spain disclaims all title to it, and has issued the royal order for delivering it to France under its original limits, and that that order was lately in the possession of the Minister of the French Republic near the United States? that the treaties had been ratified and exchanged for the sale of Louisiana to the United States, and that the Minister of the First Consul had concerted with our Government such measures as were deemed necessary to put us in possession of the ceded territory, agreeably to the treaty? How correct, then, it may be to investigate the title after we have ratified the treaty, and become thereby the purchasers, or how prudent to question that title when claiming under it, are questions the gentleman's own feelings will best decide! But of this I am sure, that we can have no just cause of complaint against the French Republic until an eviction under a pre-existing title paramount, which Spain herself disclaims. But if after we shall be in possession, under this peaceful, this legitimate title, any Power on earth shall attempt to disturb our possession; I trust we can obtain injunctions from our Secretaries of War and of the Navy, and secure our title in the way it was wished by some gentleman to have been originally obtained. The gentleman tells us he understands we are to be opposed by the subjects of His Catholic Majesty in taking possession of the ceded territory, or why send so many troops to take possession? I cannot tell where the gentleman got his information, either as to the opposition intended or the number of troops to be sent. I have never heard there was to be any opposition, but the reverse. I have never heard the number of troops that are intended to take possession; but I hope and trust a number sufficient to preserve the forts in good order, and to defend them against any Power that may presume to invest them. This, I have no doubt, will be done, as it is committed to the President, under his high responsibility, aided by the heads of the departments to which it belongs, who will be possessed of all necessary information, and who will, I trust, do their duty in preserving and defending these important posts.

Can it be supposed that the Louisianians, who so lately gave so demonstrative proof of their loyalty in their answer to the address of the Prefect of France, will be less disposed to loyalty to the United States, when they recollect that we have treated them as our children, and ourselves, by

securing them in their property and in their civil and religious liberty, agreeably to the principles of our own Constitution? Can they be so unwise as to prefer being the colonists of a distant European Power, to being members of this immense Empire, with all the privileges of American citizens? Can any gentleman seriously entertain such an unauthorized opinion—that that people, whom we have seen so lately, with so much respect to their late King, submit cheerfully to be citizens of the French Republic, will now, in direct violation of the royal order, refuse to obey it, and treasonably take up arms to resist its execution? It is as cruel as it is unfounded! But should an infatuation so treasonable beget in them insurgent principles of resistance. I hope and trust that our troops on the spot may be permitted to aid the officers of His Catholic Majesty to reduce them to reason and submission to the royal order of their King; that they may be delivered up to be brought to condign punishment, and that their treasonable project may be nipped in the bud.

I had for myself, however, supposed that from the time of the address of the French Prefect he had been in possession of and in the discharge of the civil functions of the government, and that the Spanish troops in the forts held the possession of them to preserve and protect them till the French troops should arrive under his direction; but I never did suppose that after the First Consul consented to sell that country, that he would send over his troops to take possession of it, but to surrender it; nor did I ever entertain a single doubt that after the King of Spain had sold that property to France and secured and held the property in exchange of which his royal order for the delivery of the possession was full proof, that if it was not in his power to induce the First Consul to keep it, that he would commit that integrity hitherto unsullied, by any measure violative of the faith of his own treaty.

Mr. PICKERING said, if he entertained the opinion just now expressed by the gentleman from Delaware, (Mr. WELLS,) of the binding force of all treaties made by the President and Senate, he should think it to be his duty to vote for the bill now under consideration. "The Constitution, and the laws of the United States made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, shall be the supreme law of the land."—But a treaty to be thus obligatory, must not contravene the Constitution, nor contain any stipulations which transcend the powers therein given to the President and Senate. The treaty between the United States and the French Republic, professing to cede Louisiana to the United States, appeared to him to contain such an exceptionable stipulation—a stipulation which cannot be executed by any authority now existing. It is declared in the third article, that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States." But neither the President and Senate, nor the President and Congress, are competent to such an act of incorporation. He believed that our Administration admit-

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ted that this incorporation could not be effected without an amendment of the Constitution; and he conceived that this necessary amendment could not be made in the ordinary mode by the concurrence of two-thirds of both Houses of Congress, and the ratification by the Legislatures of three-fourths of the several States. He believed the assent of each individual State to be necessary for the admission of a foreign country as an associate in the Union: in like manner as in a commercial house, the consent of each member would be necessary to admit a new partner into the company; and whether the assent of every State to such an indispensable amendment were attainable, was uncertain. But the articles of a treaty were necessarily related to each other; the stipulation in one article being the consideration for another. If, therefore, in respect to the Louisiana Treaty, the United States fail to execute, and within a reasonable time, the engagement in the third article, (to incorporate that Territory into the Union,) the French Government will have a right to declare the whole treaty void. We must then abandon the country, or go to war to maintain our possession. But it was to prevent war that the pacific measures of the last winter were adopted—they were to “lay the foundation for future peace.”

Mr. P. had never doubted the right of the United States to acquire new territory, either by purchase or by conquest, and to govern the territory so acquired as a dependent province; and in this way might Louisiana have become a territory of the United States, and have received a form of government infinitely preferable to that to which its inhabitants are now subject.

There was another serious objection to this treaty. It purported to contain a cession of Louisiana to the United States. The first article had often been read and commented upon; yet he begged leave to refer to it once more. It was therein stated, by the third article of the Treaty of St. Ildefonso, made the first of October, 1800, that the King of Spain promised and engaged, on certain conditions, “to cede to the French Republic the colony or province of Louisiana, with the same extent that it then had in the hands of Spain and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States.” Now, under this mere conditional promise of Spain, the First Consul (declaring that the French Republic had thereby an incontestable title to the country) undertakes to cede Louisiana to the United States; and how does he cede it? “In the same manner as it had been acquired by the French Republic, in virtue of the above-mentioned treaty with Spain.” That is, by that treaty, France acquired a right to demand an actual cession of the territory, provided she fulfilled all the conditions on which Spain promised to cede. But we know Spain declares that those conditions have not been fully performed; and, by her remonstrances, warns the United States not to touch Louisiana. Now we, standing (as some gentlemen have expressed themselves) in

the shoes of France, can have only the same right relative to the subject in question. We can ask of Spain an actual cession, or a confirmation of the claim we have purchased of the French Republic, provided we will and can fulfil the conditions of the Treaty of St. Ildefonso; and what are these conditions? We cannot tell. Mr. P. believed that our Executive knew not what they were; and he believed, too, that even our Envoys, who negotiated the treaty for Louisiana, were alike uninformed. He believed that they never saw (for they had not intimated that they had ever seen) any other part of the Treaty of St. Ildefonso, than what is recited in the first article of our treaty with France; and this defect has not been supplied by any guaranty of the territory on the part of France. She had not stipulated, nor is under any obligation, to procure the assent of Spain, as a confirmation of the cession to the United States.

Such is the nature of our title to Louisiana. We had, indeed, been told of a publication, long since made at New Orleans, of the King of Spain's orders to his officers there, to deliver possession of the province to the French Republic. Mr. P. would also take the liberty of mentioning what he had heard, and from good authority: that the Prince of Peace, more than a year subsequent to the Treaty of St. Ildefonso, declared that the King of Spain (his master) had not ceded Louisiana to France.

Another honorable gentleman has entertained us with an account of the animating address of the French Prefect to the inhabitants of Louisiana, the largest portion of whom are French; and of the cordiality with which they received, and echoed, in their answer, the sentiments of the Prefect. But what were the feelings and conduct of the Spanish officers on seeing these French proceedings? Mr. P. had heard from an honorable member in his eye, (Mr. DAYTON,) that they sent for the printer, and forbade all further promulgation of the address and answer, on pain of his being sent to the dungeon, or to the mines, for life. Thus tenacious was Spain of her right to Louisiana, and thus severe in her prohibition of whatever might disparage her title.

But gentlemen rely on the royal order, now in the hands of the French agent here, for the delivery of the possession of Louisiana to the French Republic. They seem to consider it as full evidence of the cession of that territory to France; and as supplying all apparent defect of title under the Treaty of St. Ildefonso. That order (said Mr. P.) is a year old. Before that time France had concluded a peace with Great Britain; and whatever the French Government should demand of Spain would be given.

It is likewise supposed that the Spanish officers in Louisiana will not dare to refuse obedience to that order; and one gentleman has expressed his opinion, in case such refusal should happen, that the American troops, whom the President should send thither, would be justified in compelling them to obey. But what if a subsequent royal order had been issued requiring those officers not

to deliver up Louisiana to France, or to the United States? We have some reason to think that such is the fact; and resistance, he presumed, was apprehended. Why, else, all this parade of war? Why had the President been authorized to employ the Army and Navy of the United States, and to call forth any portion of eighty thousand militia? Honorable gentlemen, he knew, held cheap the power of Spain; they have spoken plainly their opinion of her feebleness and inability to withstand the force of the United States: and have seemed to rest the security of our title (as he remarked on a former occasion) rather on that feebleness and inability, than on the validity of the cession from the French Republic; and one honorable gentleman has said, that Spain will be left alone; that the French Republic is bound in honor not to give her any aid. The French Republic bound in honor! For ten or fifteen years past, we had known too well what were the honor and the justice of the Government of that Republic. Perhaps Spain may not resist at the present moment. She may wait until France gets the war with Britain off her hands. Then pretences will be easily found to reclaim Louisiana; and Spain, once engaged to wrest it from us by force, will receive from France, her ally, all necessary aid. Mr. P. believed that this whole transaction had purposely been wrapt in obscurity by the French Government. The boundary of Louisiana, for instance, on the side of Florida was, in the treaty, really unintelligible; and yet nothing was more easy to define. The French Government, however, would find no difficulty in the construction. An honorable member from New Jersey (Mr. DAYTON) had informed us, that the French Prefect, at New Orleans, told him, that as soon as General Victor should arrive with the French troops he should extend Louisiana far into West Florida.

Mr. P. said, that whatever way he turned his eyes, war was in prospect, as the final result of our pacific measures—measures deemed so wise as to have been ascribed to divine inspiration! He wished they might merit that high character; but feared, in the end, they would bear the stamp of indiscretion, perhaps of folly.

Mr. DAYTON.—As the honorable gentleman from Massachusetts has quoted what was suggested by me in a former debate, to deduce from it an inference which the information I gave can by no means warrant, I must be allowed the liberty of correcting him. When I said that there existed an essential difference between the French and Spanish officers at New Orleans as to the real boundaries of the province of Louisiana, I did not mean to insinuate that this disagreement extended so far as an opposition to the French taking possession. It was a question of limits only, varying, however, so much in extent as would have produced a serious altercation between those two countries, although closely allied.

The Spanish Governor had taken it upon himself to proclaim that the province lately ceded and about to be given over to France would be confined on the east of the Mississippi to the river

Iberville, and the lakes Maurepas and Pontchartrain, or in other words to the island of New Orleans; but the French Prefect on the contrary declared that he neither had nor would give his assent to the establishment of those limits, which would be regarded no longer than until the arrival of their troops.

The same gentleman (Mr. PICKERING) has said that the advocates of this measure seem to rely much more upon their power than upon their right, and in this assertion I am compelled to say that he has done us very great injustice. The title of the French is founded upon the often quoted treaty of St. Ildefonso, confirmed by the royal order signed by the King of Spain himself, so lately as the 15th October, 1802, directing the delivery of the "colony of Louisiana and its dependencies as well as of the city and island of New Orleans, without any exception, to General Victor, or other officer duly authorized by that Republic to take charge of the said delivery."

When at New Orleans in July last, I obtained from the best source a translated copy of that royal order, and can aver that it absolutely directs possession to be given without reservation or condition. It is not, and cannot be, denied that the lately ratified treaty of Paris transfers to us completely all the title acquired by France in virtue of the first treaty and order alluded to. We have, then, most incontestably the right of possession, and our object now is, by passing the bill before us to obtain the possession itself, which we can certainly never effect, consistently with good faith, if the reasonings and objections of my honorable friends from Delaware and Massachusetts should prevail. We are asked by the same gentlemen what will be the consequence if it shall appear that the royal order has been revoked? I answer, first, that it is not in the least degree probable, for neither of them pretend to have heard of such revocation, nor is it intimated in the confidential communications before the Senate. But admitting for argument's sake that it were revoked, of what avail could it be against a third party, who had in the meantime become a *bona fide* purchaser? Shall one nation give to another a written, formal evidence of transfer of territory, and revoke it at pleasure, especially after a third shall have been tempted and induced by that very evidence of title to contract for the purchase of it. Would an act so fraudulent be countenanced between individuals in a court of equity? Could it be justified between nations in a high court of honor? The honorable gentleman from Delaware has taken a more delicate ground of objection. He has insinuated that there exists in the knowledge of the Senate, the evidence of a serious opposition to our possessing that country, which if known to the other branch of the Legislature would probably have defeated this bill in its progress there. Allusions artfully made in this manner to documents communicated under the injunction of secrecy, place us in an embarrassing situation. Forbidden by our rules to expose the papers referred to, even in argument, we can only declare what impressions they have

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made upon ourselves. Every Senator must understand him; every one must have heard and read, and weighed deliberately the contents of those documents, and, for myself, I am free to avow my belief that, if known to every member of the other House, they would have had no effect against this bill, but would rather have quickened and insured its progress, for such is the influence they have upon me.

The same gentleman goes on to say, that our own Government undoubtedly expects to meet with opposition, and to be compelled to use violence, instead of receiving peaceable possession, or why should it send there so imposing a force. From what source that honorable gentleman has acquired a knowledge of the number of troops ordered down the river, he does not tell us, nor indeed how many he means when he calls the force an imposing one. If in times of peace and profound tranquillity the Spaniards have found it prudent to keep there constantly at least four or five hundred troops, could we be justified in sending no greater number when so important an act is about to be performed as the transfer of an extensive territory with the posts connected with it, and this too before we can have had an opportunity of sounding the dispositions of the inhabitants and of the Indians in the vicinity, in order to judge what effect the change will have upon them? These are wise precautions, which our Government, I presume, would take, even if they could be most certain that the delivery would be voluntary and peaceable on the part of Spain, and therefore afford no color for the presumption that they expect or intend to use violence. The bill before us is drawn up in terms which are at the same time consistent with our late treaty, and perfectly well calculated to secure our interests, for it does not authorize payment of the stocks until after complete possession of the territory. Timely arrangements, which a law only can warrant, ought to be made for preparing the forms of certificates and for creating the stock, that everything depending on us may be ready; and where can the discretionary power of transferring it in payment be so well vested as with the President, who will certainly be the first to know when we have received the valuable consideration for it, viz: actual possession? When this event happens, Congress, which the honorable gentleman thinks should be the only judge and sole depositary of this power, may possibly not be in session, and in this case, upon his plan, our plighted faith would be violated, our acquisition of the country jeopardized, and our right to it lost. If we thus seasonably take all the preliminary steps for complying with our stipulations, and obstacles should nevertheless exist to the attainment of our object, it will be seen and known that they are not of our creation, but that we stand ready to fulfil all the engagements on our part, as I trust we shall be to compel it, if there be need, on the part of others.

Mr. TAYLOR.—There have been, Mr. President, two objections made against the treaty; one that the United States cannot constitutionally acquire

territory; the other, that the treaty stipulates for the admission of a new State into the Union; a stipulation which the treaty-making power is unable to comply with. To these objections I shall endeavor to give answers not heretofore urged.

Before a confederation, each State in the Union possessed a right, as attached to sovereignty, of acquiring territory, by war, purchase, or treaty. This right must be either still possessed, or forbidden both to each State and to the General Government, or transferred to the General Government. It is not possessed by the States separately, because war and compacts with foreign Powers and with each other are prohibited to a separate State; and no other means of acquiring territory exist. By depriving every State of the means of exercising the right of acquiring territory, the Constitution has deprived each separate State of the right itself. Neither the means nor the right of acquiring territory are forbidden to the United States; on the contrary, in the fourth article of the Constitution, Congress is empowered "to dispose of and regulate the territory belonging to the United States." This recognises the right of the United States to hold territory. The means of acquiring territory consist of war and compact; both are expressly surrendered to Congress and forbidden to the several States; and no right in a separate State to hold territory without its limits is recognised by the Constitution, nor any mode of effecting it possible, consistent with it. The means of acquiring and the right of holding territory, being both given to the United States, and prohibited to each State, it follows that these attributes of sovereignty once held by each State are thus transferred to the United States; and that, if the means of acquiring and the right of holding, are equivalent to the right of acquiring territory, then this right merged from the separate States to the United States, as indispensably annexed to the treaty-making power, and the power of making war; or, indeed, is literally given to the General Government by the Constitution.

Having proved, sir, that the United States may constitutionally acquire, hold, dispose of, and regulate territory, the other objection to be considered is, whether the third article of the treaty does stipulate that Louisiana shall be erected into a State? It is conceded that the treaty-making power cannot, by treaty, erect a new State, however they may stipulate for it. I premise, that in the construction of this article, it is proper to recollect that the negotiators must be supposed to have understood our Constitution. It became very particularly their duty to do so, because, in this article itself, they have recited "the principles of the Constitution" as their guide. Hence, it is obvious, they did not intend to infringe, but to adhere to those principles; and therefore, if the article will admit of a construction consistent with this presumable knowledge and intention of the negotiators, the probability of its accuracy will be greater than one formed in a supposition that the negotiators were either ignorant of that which they ought to have known, or that they fraudu-

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lently professed a purpose which they really intended to defeat. The following construction is reconcilable with what the negotiators ought to have known, and with what they professed to intend.

Recollect, sir, that it has been proved that the United States may acquire territory. Territory, so acquired, becomes from the acquisition itself a portion of the territories of the United States, or may be united with their territories without being erected into a State. An union of territory is one thing; of States, another. Both are exemplified by an actual existence. The United States possess territory, comprised in the union of territory, and not in the union of States. Congress is empowered to regulate or dispose of territorial sections of the Union, and have exercised the power; but it is not empowered to regulate or dispose of State sections of the Union. The citizens of these territorial sections are citizens of the United States, and they have all the rights of citizens of the United States; but such rights do not include those political rights arising from State compacts or governments, which are dissimilar in different States. Supposing the General Government or treaty-making power have no right to add or unite States and State citizens to the Union, yet they have a power of adding or uniting to it territory and territorial citizens of the United States.

The territory is ceded by the first article of the treaty. It will no longer be denied that the United States may constitutionally acquire territory. The third article declares that "the inhabitants of the ceded territory shall be incorporated in the Union of the United States." And these words are said to require the territory to be erected into a State. This they do not express, and the words are literally satisfied by incorporating them into the Union as a territory, and not as a State. The Constitution recognises and the practice warrants an incorporation of a Territory and its inhabitants into the Union, without admitting either as a State. And this construction of the first member of the article is necessary to shield its two other members from a charge of surplusage, and even absurdity. For if the words "the inhabitants of the ceded territory shall be incorporated in the Union of the United States" intended that Louisiana and its inhabitants should become a State in the Union of States, there existed no reason for proceeding to stipulate that these same inhabitants should be made "citizens as soon as possible, according to the principles of the Federal Constitution." Their admission into the Union of States would have made them citizens of the United States. Is it not then absurd to suppose that the first member of this third article, intended to admit Louisiana into the Union as a State, which would instantly entitle the inhabitants to the benefit of the article of the Constitution, declaring, that "the citizens of each State shall be entitled to all the privileges and immunities of citizens in the federal States," and yet to have gone on to stipulate for citizenship, under the limitation "as soon as possible, according to the principles of the Federal Constitution" after it had been bestowed with-

out limitation? Again; the concluding member of the article is to bestow "protection in the mean time;" incorporating this stipulation, and the stipulation for citizenship, with the construction which accuses the treaty of unconstitutionality, the article altogether must be understood thus, "the inhabitants of the ceded territory shall be taken into the Union of States, which will instantly give them all the rights of citizenship, after which they shall be made citizens as soon as possible; and after they are taken into the Union of States, they shall be protected in the interim between becoming a State in the Union, and being made citizens, in their liberty, property and religion."

By supposing the first member of the article to require that the inhabitants and their territory shall be incorporated in the Union, in the known and recognised political character of a Territory, these inconsistencies are avoided, and the article reconciled to the Constitution, as understood by the opposers of the bill; the stipulation also for citizenship "as soon as possible" according to the principles of the Constitution, and the delay meditated by these words, and the subsequent words "in the mean time" so utterly inconsistent with the instantaneous citizenship, which would follow an admission into the Union as a State, are both fully explained. Being incorporated in the Union as a Territory, and not as a State, a stipulation for citizenship became necessary; whereas it would have been unnecessary had the inhabitants been incorporated as a State, and not as a Territory. And as they were not to be invested with citizenship by becoming a State, the delay which would occur between the incorporation of the Territory into the Union and the arrival of the inhabitants to citizenship according to the principles of the Constitution, under some uniform rule of naturalization, exhibited an interim which demanded the concluding stipulation, for "protection in the meantime for liberty, property, and religion." As a State of the Union, they would not have needed a stipulation for the safety of their "liberty, property and religion;" as a Territory, this stipulation would govern and restrain the undefined power of Congress to make "rules and regulations for Territories."

If my construction is correct, all objections to the treaty and to this bill for fulfilling it, on the ground of unconstitutionality, are unfounded. The three distinct members of the third article will be each separately and distinctly complied with; first, by an incorporation of the territory and its inhabitants in the Union, as a Territory. Secondly, by admitting them to all the rights of citizens of the United States, under some uniform rule of naturalization; and, thirdly, by protecting their liberty, property, and religion, by "rules and regulations," to be, "in the meantime," enacted by Congress, under a Constitutional power extending to Territories, but not to States.

To prove the treaty unconstitutional, a member from Massachusetts, (Mr. PICKERING,) has quoted from the sixth article of the Constitution these words: "This Constitution, and the laws of

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'the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land;" and he has reasoned upon the ground, that the words "in pursuance thereof," referred to treaties as well as to laws. But the difference between the phraseology in relation to laws and to treaties, is plain and remarkable; laws were to be made "in pursuance of the Constitution;" treaties "under the authority of the United States." This difference, probably, arises from the following consideration. The objects of the Legislative power could be foreseen and defined; therefore laws are limited to be made "in pursuance of" the definitions of the objects of Legislative power in the Constitution. But the objects of the treaty-making power could not be foreseen, and are not defined; by confining the treaty-making power to a definition of its objects in the Constitution, it can never be exercised if no such definition exists; and by misapplying to the treaty-making power, the definitions of Legislative power, every right possessed by the latter would be opened to the former. But if the words, "under the authority of the United States," are considered as having been applied to treaties, in place of these—"in pursuance of the Constitution," which are applied to laws; because the objects of treaties are not defined; then the treaty-making power retains all the political attributes belonging to it, not inconsistent with the principle of agency or subordination, interwoven with our policy in all its parts. Among these, is the right or attribute of acquiring territory. And it was probably the absence of a definition as to the objects of the treaty-making power, which suggested the precaution of checking it by two-thirds of the Senate; thus subjecting it, in this body, to the same restraint imposed upon amendments to the Constitution. Whether these observations, in relation to the quotation upon which the gentleman from Massachusetts relied, do or do not prove that the objects of the treaty-making power are undefined by the Constitution, and that it is incorrect to condemn this treaty by applying to it definitions made for Legislative power, is immaterial, if the construction I have given of the third article of the treaty is correct; because that construction proves its constitutionality upon the principles contended for by the gentleman himself; and if so, his reasoning, founded upon a construction of the Constitution forbidding the erection of new States to the treaty-making power, whether right or wrong, vanishes into smoke, as the third article requires no such thing.

Mr. BUTLER next delivered his sentiments in favor of the bill, as well as generally in favor of the treaty.

Mr. TRACY.—Mr. President: I shall vote against this bill; and will give some of the reasons which govern my vote in this case.

It is well known that this bill is introduced to carry into effect the treaty between the United States and France, which has been lately ratified. If that treaty be an unconstitutional compact,

such a one as the President and Senate had no rightful authority to make, the conclusion is easy, that it creates no obligation on any branch or member of the Government to vote for this bill, or any other, which is calculated to carry into effect such unconstitutional compact.

The third and seventh articles of the treaty are, in my opinion, unconstitutional.

The third article is in the following words:

"The inhabitants of the ceded territory shall be incorporated into the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States, and, in the meantime, they shall be maintained in the free enjoyment of their liberty, property, and the religion they profess."

The obvious meaning of this article is, that the inhabitants of Louisiana are incorporated, by it, into the Union, upon the same footing that the Territorial Governments are, and, like them, the Territory, when the population is sufficiently numerous, must be admitted as a State, with every right of any other State.

Have the President and Senate a Constitutional right to do all this?

When we advert to the Constitution, we shall find that the President, by and with the advice and consent of the Senate, may make treaties. Now, say gentlemen, this power is undefined, and one gentleman says, it is unlimited.

True, there is no definition in words of the extent and nature of the treaty-making power. Two modes of ascertaining its extent have been mentioned: one is, by ascertaining the extent of the same power among the monarchs of Europe, and making that the standard of the treaty-making power here; and the other is, to limit the power of the President and Senate, in respect to treaties, by the Constitution and the nature and principles of our Government.

Upon the first criterion, it is obvious that we cannot obtain any satisfactory definition of the treaty-making power, as applicable to our Government.

It is well known that, in Europe, any part of a country may be ceded by treaty, and the transfer is considered valid, without the consent of the inhabitants of the part thus transferred. Will it be said that the President and Senate can transfer Connecticut by treaty to France or to any other country? I know that a nation may be in war, and reduced to such necessitous circumstances, as that giving up a part or half the territory, to save the remainder, may be inevitable: the United States may be in this condition; but necessity knows no law nor constitution either; such a case might be the result of extreme necessity, but it would never make it constitutional; it is a state of things which cannot, in its own nature, be governed by law or constitution. But if the President and Senate should, in ordinary peaceable times, transfer Connecticut, against her consent, would the Government be bound to make laws to carry such a treaty into effect? Such a transfer of territory can certainly be made by the



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monarchs in Europe, under the head of the treaty-making power. I am convinced, sir, that only a cursory view of this subject will be sufficient to show every reasonable man that the treaty-making power in the United States cannot be the same that it is in the European Governments; and further, that the only method to obtain a sound construction of that power, as part of our Constitution, is by examining it with a view to the Constitution, and the nature and principles of our Government.

A number of States, or independent sovereignties, entered into a voluntary association, or, to familiarize the subject, it may be called a partnership, and the Constitution was agreed to as the measure of power delegated by them to the Federal Government, reserving to themselves every other power not by them delegated. In this Constitution they have restricted the powers of Congress, or the Federal Government, in a number of instances. In all these, I think the treaty-making power is clearly restricted, as much as if it had been mentioned in the restriction. For instance, Congress can lay no tax or duty on articles exported from any State. If this restriction should be violated by treaty, could it be thought valid? Congress can give no preference by any regulations of commerce or revenue to the ports of one State over those of another. Can this preference be given by treaty, and the preference be Constitutional? If the treaty-making power is so extensive as not to be limited by the Constitution, we must submit to the most extraordinary condition, of seeing the parts of a Government, when acting separately, possessing more power than the whole when acting together. And this further absurdity would follow: Congress itself would be released from an equivocal restriction, contained in the Constitution in the cases mentioned; for if a treaty, containing stipulations to tax exports, or giving commercial preference to one port over another, be Constitutional, it is, of course, binding on every branch of the Government, and we should see the Government not only released from a Constitutional restriction, by such a treaty, but absolutely bound by it to act in open violation of the Constitution.

Many instances could be given, but I cannot conceive, that any sober opinion can be entertained, that the treaty-making power is not limited by the restrictions contained in the Constitution. To give a precise definition, and mark out unerring limits to the treaty-making power, by the nature and principles of our Government, is not an easy task, neither is it requisite for the purpose of obtaining clear ideas upon the point now before us.

The object of the original sovereignties, or partners to the compact, is obvious, from the Constitution itself; they united as equals in power, to promote the political welfare of all. Certain powers they gave: but no one partner can be supposed stupid enough to give power to transfer itself, without and against its consent, to the Government of Algiers, or any other despotic Government.

It is agreed, by the friends to the treaty, that the President and Senate cannot transfer a State. Let us examine the power of introducing a State. Suppose Louisiana contain ten millions of inhabitants; or, for the sake of argument, let it be supposed that we had a President inclined to monarchical principles, and he lived in the northern part of the Union, say in Connecticut or Massachusetts, and that two-thirds of the Senate were with him in sentiment, and that the four northern provinces of Great Britain contained ten millions of inhabitants, and were all determined monarchists, would the parties of the Union say it was competent and Constitutional for the President and Senate to introduce these ten millions of monarchists, who could at once out vote us all; and even give fifteen millions of dollars for the benefit of having them?

The principles of our Government, the original ideas and rights of the partners to the compact, forbid such a measure; and without the consent of all the partners, no such thing can be done.

The principle of admission, in the case of Louisiana, is the same as if it contained ten millions of inhabitants; and the principles of these people are probably as hostile to our Government, in its true construction, as they can be, and the relative strength which this admission gives to a Southern and Western interest, is contradictory to the principles of our original Union, as any can be, however strongly stated.

The paragraph in the Constitution, which says that "new States may be admitted by Congress into this Union," has been quoted to justify this treaty. To this, two answers may be given, either of which are conclusive in my favor. First, if Congress have the power collectively of admitting Louisiana, it cannot be vested in the President and Senate alone. Second, Congress have no power to admit new foreign States into the Union, without the consent of the old partners. The article of the Constitution, if any person will take the trouble to examine it, refers to domestic States only, and not at all to foreign States; and it is unreasonable to suppose that Congress should, by a majority only, admit new foreign States, and swallow up, by it, the old partners, when two-thirds of all the members are made requisite for the least alteration in the Constitution. The words of the Constitution are completely satisfied, by a construction which shall include only the admission of domestic States, who were all parties to the Revolutionary war, and to the compact; and the spirit of the association seems to embrace no other. But I repeat it, if the Congress collectively has this power, the President and Senate cannot, of course, have it exclusively.

I think, sir, that, from a fair construction of the Constitution, and an impartial view of the nature and principles of our association, the President and Senate have not the power of thus obtruding upon us Louisiana.

But it is said, that this third article of the treaty only promises an introduction of the inhabitants of Louisiana into this Union, as soon as the prin-



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ciples of the Federal Government will permit; and that, if it is unconstitutional, it is void; and, in that case, we ought to carry into effect the Constitutional part.

To this, I answer, if it is a promise only to admit into the Union, and this promise is unconstitutional, while I agree it is void, it must be agreed on the other side that it makes the whole treaty void; and that one article in a treaty being void, either from an unconstitutional or any other impossibility to carry it into effect, puts it in the power of either party to stay a fulfilment of any and every part of it. No principle in the law of nations respecting the construction of treaties, is better settled, than that every article of a treaty is a consideration for every other article: and if any one article shall be expunged, or its performance becomes impossible, the other party is released from a performance. And my opinion is, that a new negotiation upon the subject of this very article, and an agreement, on the side of the French Government, to release us from a compliance with this article, can alone render us safe in paying the money. After we have paid the money—the \$15,000,000—and have fulfilled with ever so much conscientious punctuality every other part of the treaty, yet, if we refuse an admission of these people into our Union, the French may, and probably will, say that, to give the people of Louisiana the full and complete rights of citizens of the United States, was the great and leading motive in ceding to us the territory, and if we deny them that, the treaty is void, and they will take them back again, and give them the enjoyment of real liberty under the First Consul. They will be justified by the law of nations if they do so; but how shall we stand justified if we pay the money, which, with the interest, amounts to twenty-six or twenty-seven millions of dollars, and finally, get nothing for it; unless we call a breach of faith, and war with France, an acquisition?

The seventh article admits for twelve years the ships of France and Spain into the ceded territory, free of foreign duty—this is giving a commercial preference to those ports over the other ports of the United States; because, it is well known that a duty of forty-four cents on tonnage, and ten per cent. on duties, are paid by all foreign ships or vessels in all the ports of the United States. If it be said we must repeal those laws, and then the preference will cease, the answer is, that this seventh article gives the exclusive right of entering the ports of Louisiana to the ships of France and Spain, and if our discriminating duties were repealed this day, the preference would be given to the ports of the United States against those of Louisiana, so that the preference, by any regulation of commerce or revenue, which the Constitution expressly prohibits from being given to the ports of one State over those of another, would be given by this treaty, in violation of the Constitution. I acknowledge, if Louisiana is not admitted into the Union, and that if there is no promise to admit her, then this part of our argument will not apply; but, in declaring these to

be facts, my opponents are driven to acknowledge that the third article of this treaty is void, which answers every purpose which I wish to establish, that this treaty is unconstitutional and void, and that I have, consequently, a right to withhold my vote from any bill which shall be introduced to carry it into effect. I acknowledge, sir, that my opinion ever has been, and still is, that when a treaty is ratified by the constituted authorities, and is a Constitutional treaty, every member of the community is bound by it, as a law of the land; but not so by a treaty which is unconstitutional. The terms of this treaty may be extravagant and unwise, yet, in my legislative capacity, that can form no excuse for an opposition; we may have no title, we may have given an enormous sum, we may have made a silly attempt to destroy the discriminating duties, yet, if the treaty be not unconstitutional, every member of the Government is bound to carry it into effect.

I shall be asked, sir, what can be done? To this question I have two answers: one is, that nothing unconstitutional can or ought to be done; and if it be ever so desirable that we acquire foreign States, and the navigation of the Mississippi, &c., no excuse can be formed for violating the Constitution; and if all those desirable effects cannot take place without violating it, they must be given up. But another and more satisfactory answer can be given. I have no doubt but we can obtain territory either by conquest or compact, and hold it, even all Louisiana, and a thousand times more, if you please, without violating the Constitution. We can hold territory; but to admit the inhabitants into the Union, to make citizens of them, and States, by treaty, we cannot constitutionally do; and no subsequent act of legislation, or even ordinary amendment to our Constitution, can legalize such measures. If done at all, they must be done by universal consent of all the States or partners to our political association. And this universal consent I am positive can never be obtained to such a pernicious measure as the admission of Louisiana, of a world, and such a world, into our Union. This would be absorbing the Northern States, and rendering them as insignificant in the Union as they ought to be, if, by their own consent, the measure should be adopted.

Mr. BRECKENRIDGE observed, that he little expected a proceeding so much out of order would have been attempted, as a re-discussion of the merits of the treaty on the passage of this bill; but as the gentlemen in the opposition had urged it, he would, exhausted as the subject was, claim the indulgence of the Senate in replying to some of their remarks.

No gentleman, continued he, has yet ventured to deny, that it is incumbent on the United States to secure to the citizens of the western waters, the uninterrupted use of the Mississippi. Under this impression of duty, what has been the conduct of the General Government, and particularly of the gentlemen now in the opposition, for the last eight months? When the right of deposit was violated by a Spanish officer without

authority from his Government, these gentlemen considered our national honor so deeply implicated, and the rights of the western people so wantonly violated, that no atonement or redress was admissible, except through the medium of the bayonet. Negotiation was scouted at. It was deemed pusillanimous, and was said to exhibit a want of fellow-feeling for the Western people, and a disregard to their essential rights. Fortunately for their country, the counsel of these gentlemen was rejected, and their war measures negatived. The so much scouted process of negotiation was, however, persisted in, and instead of restoring the right of deposit, and securing more effectually for the future our right to navigate the Mississippi, the Mississippi itself was acquired, and everything which appertained to it. I did suppose that those gentlemen, who, at the last session so strongly urged war measures for the attainment of this object, upon an avowal that it was too important to trust to the tardy and less effectual process of negotiation, would have stood foremost in carrying the treaty into effect, and that the peaceful mode by which it was acquired would not lessen with them the importance of the acquisition. But it seems to me, sir, that the opinions of a certain portion of the United States with respect to this ill-fated Mississippi, have varied as often as the fashions. [Here Mr. B. made some remarks on the attempts which were made in the old Congress, and which had nearly proved successful, to cede this river to Spain for twenty-five years.] But, I trust, continued he, these opinions, schemes, and projects will forever be silenced and crushed by the vote which we are this evening about to pass.

Permit me to examine some of the principal reasons which are deemed so powerful by gentlemen as to induce them to vote for the destruction of this treaty. Unfortunately for the gentlemen, no two of them can agree on the same set of objections; and what is still more unfortunate, I believe there is no two of them concur in any one objection. In one thing only they seem to agree, and that is to vote against the bill. An honorable gentleman from Delaware (Mr. WHITE) considers the price to be enormous. An honorable gentleman from Connecticut, who has just sat down, (Mr. TRACY,) says he has no objection whatever to the price; it is, he supposes, not too much. An honorable gentleman from Massachusetts (Mr. PICKERING) says that France acquired no title from Spain, and therefore our title is bad. The same gentleman from Connecticut (Mr. TRACY) says, he has no objection to the title of France; he thinks it a good one. The gentleman from Massachusetts (Mr. PICKERING) contends that the United States cannot under the Constitution acquire foreign territory. The gentleman from Connecticut is of a different opinion, and has no doubt but that the United States can acquire and hold foreign territory; but that Congress alone have the power of incorporating that territory into the Union. Of what weight, therefore, ought all their lesser objections be entitled to, when they are at war among themselves on the greater one?

As to the enormity of price, I would ask that gentleman, would his mode of acquiring it through fifty thousand men have cost nothing? Is he so confident of this as to be able to pronounce positively that the price is enormous? Does he make no calculation on the hazard attending this conflict? Is he sure the God of battles was enlisted on his side? Were France and Spain, under the auspices of Bonaparte, contemptible adversaries? Good as the cause was, and great as my confidence is in the courage of my countrymen, sure I am, that I shall never regret, as the gentleman seems to do, that the experiment was not made. I am not in the habit Mr. President, on this floor, of panegyricizing those who administer the Government of this country. Their good works are their best panegyrics, and of these my fellow-citizens are as competent to judge as I am; but if my opinion were of any consequence, I should be free to declare, that this transaction from its commencement to its close, not only as to the mode in which it was pursued, but as to the object achieved, is one of the most splendid which the annals of any nation can produce. To acquire an empire of perhaps half the extent of the one we possessed, from the most powerful and warlike nation on earth, without bloodshed, without the oppression of a single individual, without in the least embarrassing the ordinary operations of your finances, and all this through the peaceful forms of negotiation, and in despite too of the opposition of a considerable portion of the community, is an achievement of which the archives of the predecessors, at least, of those now in office, cannot furnish a parallel.

The same gentleman has told us, that this acquisition will, from its extent, soon prove destructive to the Confederacy.

This, continued Mr. B., is an old and hackneyed doctrine; that a Republic ought not to be too extensive. But the gentleman has assumed two facts, and then reasoned from them. First, that the extent is too great; and secondly, that the country will be soon populated. I would ask, sir, what is his standard extent for a Republic? How does he come at that standard? Our boundary is already extensive. Would his standard extent be violated by including the island of Orleans and the Floridas? I presume not, as all parties seem to think their acquisition, in part or in whole, essential. Why not then acquire territory on the west, as well as on the east side of the Mississippi? Is the Goddess of Liberty restrained by water courses? Is she governed by geographical limits? Is her dominion on this continent confined to the east side of the Mississippi? So far from believing in the doctrine that a Republic ought to be confined within narrow limits, I believe, on the contrary, that the more extensive its dominion the more safe and more durable it will be. In proportion to the number of hands you intrust the precious blessings of a free government to, in the same proportion do you multiply the chances for their preservation. I entertain, therefore, no fears for the Confederacy on account of its extent. The American

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people too well know the art of governing and of being governed, to become the victims of party factions or of domestic tyranny. They not only understand the true theory of a free government, but as well understand a much rarer thing, the true art of practising it. Had a great nation beyond the Atlantic, so often alluded to by some gentlemen on this floor, understood the practice but half as well as she did the theory, a very different result would have been produced by her revolution. I believe, sir, there are a set of general causes which operate in every Government, and either exalt and support it, or else involve it in ruin. If any particular cause has destroyed the Government of a country, some general cause has existed and produced the ruin. Whenever that general cause shall exist, it matters little whether the extent of the Republic be great or small, for its destruction is equally inevitable.

But is the immediate population of that country, even admitting its extent were too great, a necessary consequence? Cannot the General Government restrain the population within such bounds as may be judged proper? Will gentlemen say that this impracticable? Let us not then, sir, assume to ourselves so much wisdom and foresight in attempting to decide upon things which properly belong to those who are to succeed us. It is enough for us to make the acquisition: the time and manner of disposing of it, must be left to posterity. If they do not improve the means of national prosperity and greatness which we have placed in their hands, the fault or the folly will lie with them. But nothing so remote is more clear to me, than that this acquisition will tend to strengthen the Confederacy. It is evident, as this country had passed out of the hands of Spain, that whether it remained with France, or should be acquired by England, its population would have been attempted. Such is the policy of all nations but Spain. From whence would that population come? Certainly not from Europe. It would come almost exclusively from the United States. The question, then, would simply be, "Is the Confederacy more in danger from Louisiana, when colonized by American people under American jurisdiction, than when populated by Americans under the control of some foreign, powerful, and rival nation?" Or, in other words, whether it would be safer for the United States to populate this country when and how she pleased, or permit some foreign nation to do it at her expense?

The gentlemen from Delaware and Massachusetts both contend, that the third article of the treaty is unconstitutional, and our consent to its ratification a nullity, because the United States cannot acquire foreign territory. I am really at a loss how to understand gentlemen. They admit, if I do understand them, that the acquisition of a part at least of this country is essential to the United States, and must be made. That this acquisition must extend to the soil; and to use the words of their resolutions last session, "that it is not consistent with the dignity of the Union to

hold a right so important by a tenure so uncertain." Now, I ask, is this "certain tenure" to be acquired, but by conquest, or a purchase of the soil? Did not gentlemen intend, when they urged its seizure, that the United States, if successful, should hold it in absolute sovereignty? Were any Constitutional difficulties then in the way? And will they now be so good as to point out that part of the Constitution which authorizes us to acquire territory by conquest, but forbids us to acquire it by treaty? But if gentlemen are not satisfied with any of the expositions which have been given of the third article of the treaty, is there not one way, at least, by which this territory can be held? Cannot the Constitution be so amended, (if it should be necessary) as to embrace this territory? If the authority to acquire foreign territory be not included in the treaty-making power, it remains with the people; and in that way all the doubts and difficulties of gentlemen may be completely removed; and that, too, without affording France the smallest ground of exception to the literal execution on our part of that article of the treaty.

Suppose, continues the same gentleman, we should discover before the end of the session that France had acquired from Spain no title to Louisiana; would you not put it out of your power to withhold the stock, by passing this bill? If such a discovery had any possibility of existence, there would be some force in the objection; but with the information before us, such discovery is impossible. By the treaty, France declares and covenants that she has an "incontestable title." Spain has sanctioned that covenant by a similar declaration that the right is in France, and has parted, so far as is in her power, with the possession, by the delivery to France of the royal order for its surrender. It would, therefore, be a strange discovery now to make, that France had no title, nevertheless the declarations and the acts of Spain to the contrary. But how could we reconcile such conduct to ourselves and to the world, after what has passed? A purchase has been made from France, and no exception taken during the negotiation to her title. The treaty has been ratified and proclaimed by the President; Congress have passed an act authorizing him to take possession. He has no doubt made the arrangements, and is at this moment carrying into execution the injunction of that act; but when we are about to fulfil the only stipulation which is important to France we are called on to hold our hands, and examine if we cannot discover some flaw in the title we have purchased. Is this a candid, a becoming, an honorable course of proceeding? Would it not rather be a diplomatic and Legislative *coup de main*, to avail ourselves of the possession of this country, which France and the world might justly call perfidy? It certainly would; and the rejection or even postponement of this bill on such grounds would, in my opinion, afford France no trifling pretext for the non-execution of the treaty on her part.

It is said that there is something mysterious in the very face of the treaty, for no consideration

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is stated to be given for this territory. The gentleman has certainly not examined these instruments with attention: and I shall merely refer him to the ninth article of the treaty. That article expressly refers to the conventions, and declares them to be a part of it. Those conventions, which are to be ratified jointly and at the same time with the treaty, state the consideration.

I had hoped, sir, that the gentleman from Connecticut, (Mr. Tracy,) from the trouble he was so good as to give himself yesterday in assisting to amend this bill, would have voted for it; but it seems he is constrained to vote to-day against it. He asks, if the United States have power to acquire and add new States to the Union, can they not also cede States? Can they not, for example, cede Connecticut to France? I answer they cannot; but for none of the reasons assigned by him. The Government of the United States cannot cede Connecticut, because, first, it would be annihilating part of that sovereignty of the nation which is whole and entire, and upon which the Government of the United States is dependant for its existence; and secondly, because the fourth section of the fourth article of the Constitution forbids it. But how does it follow as a consequence, that because the United States cannot cede an existing State, they cannot acquire a new State? He admits explicitly that Congress may acquire territory and hold it as a territory, but cannot incorporate it into the Union. By this construction he admits the power to acquire territory, a modification infinitely more dangerous than the unconditional admission of a new State; for by his construction, territories and citizens are considered and held as the property of Government of the United States, and may consequently be used as dangerous engines in the hands of the Government against the States and people.

Could we not, says the same gentleman, incorporate in the Union some foreign nation containing ten millions of inhabitants—Africa, for instance—and thereby destroy our Government? Certainly the thing would be possible if Congress would do it, and the people consent to it; but it is supposing so extreme a case and is so barely possible, that it does not merit serious refutation. It is also possible and equally probable that republicanism itself may one day or other become unfashionable, (for I believe it is not without its enemies,) and that the people of America may call for a King. From such hypotheses it is impossible to deduce anything for or against the construction contended for. The true construction must depend on the manifest import of the instrument and the good sense of the community.

The same gentleman, in reply to the observations which fell from the gentleman from South Carolina, as to the admission of new States, observes, that although Congress may admit new States, the President and Senate who are but a component part, cannot. Apply this doctrine to the case before us. How could Congress by any mode of legislation admit this country into the Union until it was acquired? And how can this acquisition be made except through the treaty-

making power? Could the gentleman rise in his place and move for leave to bring in a bill for the purchase of Louisiana and its admission into the Union? I take it that no transaction of this or any other kind with a foreign Power can take place except through the Executive Department, and that in the form of a treaty, agreement, or convention. When the acquisition is made, Congress can then make such disposition of it as may be expedient.

In the search for objections to this treaty, the same gentleman has discovered that it is not the business of France to deliver possession of this country, because the second article of the convention says we are to take possession of it; and another gentleman on the same point observes that the possession may also be an incomplete one, for the President, for aught he knows, may consider the seizing a twig or the knocker of a door sufficient. Here is another instance of an objection which is refuted by a mere reference to the instrument itself; for the fourth and fifth articles of the treaty expressly stipulate that the Government of France shall send a commissary to Louisiana to receive it and all its dependencies from the officers of Spain, and in the name of the French Republic to transmit it to the commissary or agent of the United States. As to the other objection, which is founded on a doubt whether the President will take complete possession or not, it really exhibits the most unconstitutional distrust of the Executive Department which I have ever witnessed. If he cannot be trusted, who are to be the judges whether this delivery of possession be complete or not? Does the gentleman intend that the two Houses of Congress shall take upon themselves the management of this business? But greater trusts have been confided to former Presidents. Have gentlemen forgotten the law of 1798 or 1799, which enabled the then President not only to raise an army, but to go to war, if in *his opinion* exigencies should require it? Have they forgotten a more recent event—the resolutions proposed by themselves at the last session, authorizing the President to raise an army of 50,000 men, and take possession of this country by force? The confidence of gentlemen in the President was then abundant, indeed; but now he cannot be trusted to receive peaceable possession of that, which, but a few months ago, they were anxious to authorize him to take by conquest from both France and Spain.

Although the gentleman from Connecticut declares that he has no objection to the title of France, nor to the price agreed to be given; and although he admits the United States have power, under the Constitution, to purchase and to hold the country as territory; yet, still, he cannot vote for the measure. Has that gentleman, and those who mean to give a similar vote, well weighed the state of things which will result, in case they should be successful in their opposition?

Is not the national honor pledged to procure this right? What course do gentlemen mean to pursue to attain it? Or do they mean to abandon near a million of our Western citizens to ruin and

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despair? If you reject this treaty, with what face can you open another negotiation? What President would venture another mission, or what Minister could be prevailed on to be made the instrument of another negotiation? You adopt the treaty, direct possession to be taken of the country, and then refuse to pay for it!

What palliation can we offer to our Western citizens for a conduct like this? Will they be content with the refined and metaphysical reasonings and constructions upon which gentlemen have bottomed their opposition to-day? Will it be satisfactory to them to be told that the title is good, the price low, the finances competent, and the authority, at least to purchase, Constitutional; but that the country is too extensive, and that the admission of these people to all the privileges we ourselves enjoy, is not permitted by the Constitution? It will not, sir.

Without disparagement, Mr. President, to any portion of America, I hesitate not to declare that I believe the people of the Western States are as sincerely attached to the Confederacy, and to the true principles of the Constitution, as any other quarter of the Union. A great portion of them have emigrated from the Atlantic States, and are attached to them by all those ties which so strongly bind societies together. The present generation may therefore possibly be disposed to endure much. But can you hope that those attachments, or dispositions to acquiesce in wrongs, will descend to our sons? Let no such calculations, I pray you, be made either upon us, or on those who are to succeed us. They will prove fallacious. There is a point of endurance beyond which even the advocates for passive obedience and non-resistance cannot expect men to pass. That point is at once reached the moment you solemnly declare, by your vote, that a part of your citizens shall not enjoy those natural rights and advantages of which they are unjustly deprived, and which you have not the complete power to restore to them. Then it is that gentlemen may talk of danger to the Union; then it is I shall begin to tremble for my country; and then it is, and not till then, I shall agree with gentlemen that the Confederacy is in danger.

Mr. ADAMS.—It is not my intention to trespass long upon the patience of the Senate, on a subject which has already been debated almost to satiety; but, as objections on Constitutional grounds have been raised against the bill under discussion, I wish to say a very few words in justification of the vote which I think it my duty to give.

The objections against the passage of the bill, as far as my recollection serves me, are two: the first, started by the honorable gentleman from Delaware who opened this debate; the second, urged by several of the other members who have spoken upon the question.

The gentleman from Delaware admits the necessity of making the provision for carrying into execution, on our part, the treaty which has been duly ratified by the Senate, *provided* we can obtain complete and undoubted possession of the territory ceded us by France, in that treaty. But he observes, that the term possession is indefinite;

that it may mean nothing more than the delivery of a twig, or of the knob of a door. That, from sources of the authenticity of which we have no reason to doubt, we are informed that Spain is very far from acquiescing in the cession of this territory to us; that probably the Spanish officers will not deliver peaceable possession; and that we ought not to put out of our own hands the power of withholding the payment of this money, until it shall be ascertained, beyond all question, that the territory, for which it is the consideration, is in our hands. But, sir, admitting that the word possession were of itself not sufficiently precise, I think, with the gentleman last up, that the fourth and fifth articles of the treaty, read by him, render it so in this instance. The fourth, stipulating that the French commissary shall do *every act necessary* to receive the country from the Spanish officers, and transmit it to the agent of the United States—and the fifth, providing, not only that all the *military posts* shall be delivered to us; and that the troops, whether of France or Spain, shall cease to occupy them, but that those troops shall all be embarked, within three months after the ratification of the treaty. Now, when the country has been formally surrendered to us, when all the military posts are in our hands, and when all the troops, French or Spanish, have been embarked, what possible adverse possession can there be to contend against ours? Until all these conditions shall have been fulfilled on the part of France, neither the convention nor the bill before us requires the payment of money on ours; and we may safely trust the execution of the law to the discretion of the President of the United States. For, even if I could see any reason for distrusting him in the exercise of such a power, under different circumstances, which I certainly do not, still, in the present case, his own interest, and the weight of responsibility resting upon him, are ample security to us, against any undue precipitation on his part, in the payment of the money. On the other hand, I am extremely solicitous that every tittle of the engagements on our part in these conventions should be performed with the most scrupulous good faith, and I see no purpose of utility that can be answered by postponing the determination on the passage of this bill.

But it has been argued that the bill ought not to pass, because the treaty itself is an unconstitutional, or to use the words of the gentleman from Connecticut, an extra constitutional act; because it contains engagements which the powers of the Senate were not competent to ratify, the powers of Congress not competent to confirm, and, as two of the gentlemen have contended, not even the Legislatures of the number of States requisite to effect an amendment of the Constitution are adequate to sanction. It is therefore, say they, a nullity; we cannot fulfil our part of its conditions, and on our failure in the performance of any one stipulation, France may consider herself as absolved from the obligations of the whole treaty on her. I do not conceive it necessary to enter into the merits of the treaty at this time. The proper occasion for that discussion is past. But, allowing

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even that this is a case for which the Constitution has not provided, it does not in my mind follow, that the treaty is a nullity, or that its obligations, either on us or on France, must necessarily be cancelled. For my own part, I am free to confess, that the third article and more especially the seventh, contain engagements placing us in a dilemma, from which I see no possible mode of extricating ourselves but by an amendment, or rather an addition to the Constitution. The gentleman from Connecticut, (Mr. TRACY,) both on a former occasion, and in this day's debate, appears to me to have shown this to demonstration. But what is this more than saying, that the President and Senate have bound the nation to engagements which require the co-operation of more extensive powers than theirs, to carry them into execution? Nothing is more common in the negotiations between nation and nation, than for a Minister to agree to and sign articles beyond the extent of his powers. This is what your Ministers, in the very case before you, have confessedly done. It is well known that their powers did not authorize them to conclude this treaty; but they acted for the benefit of their country, and this House by a large majority has advised to the ratification of their proceedings. Suppose then, not only that the Ministers who signed, but the President and Senate who ratified this compact, have exceeded their powers. Suppose that the other House of Congress, who have given their assent by passing this and other bills for the fulfilment of the obligations it imposes on us, have exceeded their powers. Nay, suppose even that the majority of States competent to amend the Constitution in other cases, could not amend it in this, without exceeding their powers—and this is the extremest point to which any gentleman on this floor has extended his scruples—suppose all this, and there still remains in the country a power competent to adopt and sanction every part of our engagements, and to carry them entirely into execution. For, notwithstanding the objections and apprehensions of many individuals, of many wise, able and excellent men, in various parts of the Union, yet such is the public favor attending the transaction which commenced by the negotiation of this treaty, and which I hope will terminate in our full, undisturbed and undisputed possession of the ceded territory, that I firmly believe if an amendment to the Constitution, amply sufficient for the accomplishment of everything for which we have contracted, shall be proposed, as I think it ought, it will be adopted by the Legislature of every State in the Union. We can therefore fulfil our part of the conventions, and this is all that France has a right to require of us. France never can have the right to come and say: "I am discharged from the obligation of this treaty, because your President and Senate, in ratifying it, exceeded their powers," for this would be interfering in the internal arrangements of our Government. It would be intermeddling in questions with which she has no concern, and which must be settled altogether by ourselves. The only question for France is, whether she has contracted with the department of our

Government authorized to make treaties; and this being clear, her only right is to require that the conditions stipulated in our name be punctually and faithfully performed. I trust they will be so performed, and will cheerfully lend my hand to every act necessary for the purpose. For I consider the object as of the highest advantage to us; and the gentleman from Kentucky himself, who has displayed with so much eloquence the immense importance to this Union of the possession of the ceded country, cannot carry his ideas further on that subject than I do.

With these impressions, sir, perceiving in the first objection no substantial reason requiring the postponement, and in the second no adequate argument for the rejection of this bill, I shall give my vote in its favor.

MR. NICHOLAS.—Mr. President, so much has been said upon this subject that but little remains for me to say, as I mean to confine myself to a few observations, that I have not heard made by others. It is extraordinary that arguments to show the unconstitutionality of the treaty, should be addressed to this Senate, to prevent its execution, after two-thirds of this body have advised and consented to its ratification. The motive for this must be what was suggested by the gentleman from South Carolina; an expectation of making impressions unfavorable to the treaty; and that, after the full discussion that has been had, the friends of the treaty would not deem it necessary to refute arguments so unseasonably repeated. The gentlemen on the other side differ among themselves. The two gentlemen from Delaware say, that if peaceable possession is given of Louisiana this bill ought to pass; the other gentlemen who have spoken in opposition to it have declared, that if they believed the Constitution was not violated by the treaty, they should think themselves bound to vote for the bill. To this Senate it cannot be necessary to answer arguments denying the power of the Government to make such a treaty; it has already been affirmed, so far as we could affirm it, by two-thirds of this body; it is then only now necessary to show that we ought to pass the bill at this time. In addition to the reasons which have been so ably and forcibly urged by my friends, I will remark, that the treaty-making power of this Government is so limited that engagements to pay money cannot be carried into effect without the consent and co-operation of Congress. This was solemnly decided, after a long discussion of several weeks, by the House of Representatives, which made the appropriations for carrying the British Treaty into effect, and such I believe is the understanding of nine-tenths of the American people, as to the construction of their Constitution. This decision must be also known to foreigners, and if not, they are bound to know the extent of the powers of the Government with which they treat. If this bill should be rejected, I ask gentlemen whether they believe, that France would or ought to execute the treaty on her part? It is known to the French Government that the President and Senate cannot create stock, nor provide for the payment of

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either principal or interest of stock; and if that Government should be informed that a bill, authorizing the issue of stock to pay for the purchase, "after possession shall be delivered," had been rejected by the only department of our Government competent to the execution of that part of the treaty, they would have strong ground to suspect that we did not mean to execute the treaty on our part; particularly when they are informed, that the arguments most pressed in opposition to the bill were grounded upon a belief that the Government of the United States had not a Constitutional power to execute the treaty. Of one thing I am confident, that if they have the distrust of us which some gentlemen have this day expressed of them, the country will not be delivered to the agents of our Government should this bill be rejected.

The gentleman from Connecticut, finding himself unable to combat or refute the able and ingenious exposition of the third article of the treaty given by my colleague, has attempted to lessen the force of his observations by representing him as having given a construction to the Constitution by which the treaty-making power is rendered omnipotent. This is an artifice often practised. But in this instance, as in all others, it must fail of producing the intended effect with such an assembly as this. The gentleman from Massachusetts had read and commented on the Constitution in such a manner as to make an impression, that it was declared in the sixth article, that the Constitution, the laws of the United States, and all treaties made or to be made in pursuance thereof, shall be the supreme law of the land. My colleague showed that the Constitution had not been correctly quoted, and stated that the expression of the Constitution was "all treaties made or to be made under the authority of the United States;" that the Legislative power was defined and that the treaty-making power was not defined, though not unlimited; and this is evident and palpable, for if the treaty-making power is trammelled in the manner that some gentlemen now contend it is, why declare that the laws made in pursuance of the Constitution and all treaties made or which shall be made under the authority of the United States are the supreme laws of the land? The reason is obvious, the Legislative power is limited in a manner that it was neither intended, nor was it practicable to limit the treaty-making power. The power of legislation was only meant to be given for certain and particular purposes; all other Legislative powers were reserved to the States, whereas the whole treaty-making power of the nation was vested in the President, to be exercised with the advice and consent of the Senate. To refute the arguments of my colleague, it is necessary to show, that the powers of the President and Senate, in their treaty-making capacity, are defined and limited, either by special grants of power, which exclude powers not given, or by particular reservations. Upon an examination of the Constitution it will be found that the powers are neither specified nor are there any reservations. But it must not be inferred from this, that we believe the treaty-making power is unlimited. The Con-

stitution imposes particular and general limitations upon the powers of the Government of the United States. No department of the Government can do any of the things that are prohibited by the Constitution. Nor would they be justifiable in not doing what is positively enjoined upon them to do. I do not believe therefore that the President and Senate would cede a State or any part of a State, because our common defence was one of the great purposes for which the Government was formed, and because the Constitution guaranties to every State in the Union a Republican form of Government, and engages to protect each of them against invasion.

If the special grants of power to Congress are to be considered as limitations of the treaty-making power, the power of making treaties does not substantially exist in this Government; and if our time would permit it, I would show that a commercial treaty cannot be formed, without interfering with the power given to Congress to regulate commerce, lay and collect duties, imposts, &c., and that no other treaty can be formed that will not require an engagement for the payment of money, or, in one way or other, the exercise of one or more of the powers vested in Congress. To make ours a practicable Government, it must be understood that the treaty-making power may negotiate respecting many of the subjects upon which Congress may legislate, but that Congress are not bound to carry into execution such compacts (where an act of theirs is necessary to give them effect) unless they approve of them. And this must be fully understood by all nations with whom such compacts may be formed. Upon every other subject proper for a national compact, not inconsistent with our Constitution, and under the limitations by me stated, a treaty may be negotiated and absolutely concluded by the treaty-making power, so as to bind the nation.

The gentleman from Connecticut (Mr. TRACY) must consider the grant of power to the Legislature as a limitation of the treaty-making power, for he says, "that the power to admit new States and to make citizens is given to Congress, and not to the treaty-making power;" therefore an engagement in a treaty to do either of these things is unconstitutional. I cannot help expressing my surprise at that gentleman's giving that opinion, and I think myself justifiable in saying, that if it is now his opinion, it was not always so. The contrary opinion is the only justification of that gentleman's approbation of the British Treaty, and of his vote for carrying it into effect. By that treaty a great number of persons had a right to become American citizens immediately; not only without a law, but contrary to an existing law. And by that treaty many of the powers specially given to Congress were exercised by the treaty-making power. It is for gentlemen who supported that treaty, to reconcile the construction given by them to the Constitution in its application to that instrument, with their exposition of it at this time.

If the third article of the treaty is an engagement to incorporate the Territory of Louisiana into the Union of the United States, and to make



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it a State, it cannot be considered as an unconstitutional exercise of the treaty-making power; for it will not be asserted by any rational man that the territory is incorporated as a State by the treaty itself; when it is expressly declared that "the inhabitants shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution. Evidently referring the question of incorporation, in whatever character it was to take place, to the competent authority; and leaving to that authority to do it, at such time, and in such manner, as they may think proper. If, as some gentlemen suppose, Congress possess this power, they are free to exercise it in the manner that they may think most conducive to the public good. If it can only be done by an amendment to the Constitution, it is a matter of discretion with the States whether they will do it or not; for it cannot be done "according to the principles of the Federal Constitution," if the Congress or the States are deprived of that discretion, which is given to the first, and secured to the last by the Constitution. In the third section of the fourth article of the Constitution it is said, "new States may be admitted by the Congress into this Union." If Congress have the power, it is derived from this source; for there are no other words in the Constitution that can, by any construction that can be given to them, be considered as conveying this power. If Congress have not this power, the Constitutional mode would be by an amendment to the Constitution. If it should be conceded then that the admission of this territory into the Union, as a State, was in the contemplation of the contracting parties, it must be understood with a reservation of the right of this Congress or of the States to do it, or not; the words "admitted as soon as possible," must refer to the voluntary admission in one of the two modes that I have mentioned; for in no other way can a State be admitted into this Union.

Mr. COCKE.—Mr. President, it is with reluctance I rise, at this late hour of the day, to claim your attention on a subject that has been so ably discussed, but the deep interest the State must feel, that I have the honor in part to represent, pleads my apology, and requires that the objections made to the passage of this bill should meet my answer.

Gentlemen appear to have rested their objections on two grounds; first, the constitutionality; secondly, the expediency of passing the bill at this time; these objections when we give them their full weight, cannot appear well founded or consistent with opinions formerly delivered by the gentlemen on this floor, at a time when they contemplated taking New Orleans and the Floridas by military force. Here, however, I must except the gentleman from New Jersey, (Mr. DAYTON,) and freely confess that he has been consistent, and that a manly consistency has accompanied him through the whole of this business, although I believe him to have been mistaken in point of true policy.

But what must we think of gentlemen in whom

this sudden change has taken place, and who now exclaim against the passage of this bill, when we recollect that last winter they were ready to storm the Spanish garrisons, and who then promised by their valor to secure us a free trade down the Mississippi, and to make New Orleans and the Floridas their own? Did the Constitution then form a barrier against them? They must excuse me, if in point of candor, I cannot compliment them, for they have not only voted against the treaty, that secures to us more than they could have contemplated by their arms and their valor, but they have also voted against the law for carrying the objects of that treaty into effect, after the treaty has been ratified, and the exchange of ratifications taken place in due form; and now, sir, we hear those warlike spirits expressing their fears, that the Western country will soon become too powerful for the East, and that a separation must inevitably take place between us. I ask gentlemen the ground on which they build their fears. It cannot be, sir, that we have paid less respect to the laws of the Union, than any other portion of our fellow-citizens; or have we in any instance shown less regard for our Government, or its honest administration? Is it then that gentlemen had determined in their own minds to treat us with such marked indifference, or injustice, as should rouse us to just resentment? When that shall be the case, I agree with my friend from Kentucky, that there is a point, beyond which we cannot go. But let not gentlemen be alarmed at the acquisition of Louisiana, this New World as they please to call it, and which they seem at so great a loss to know what to do with. Since, sir, we have made it our own, I trust we shall find capacity sufficient to govern it. For why all those fears? Is it not the true interest of all to be united, and will not our mutual interest and love of country bind us together? It certainly will. But gentlemen appear as if they thought our late acquisition has made us too rich, and seek to know how we shall dispose of that vast country. When that shall be the question before us, there will be but little difficulty on that subject, and for myself I promise the gentleman I shall, without hesitation, say what I think will best accord with the interest, and bind in friendship, every part of the Union.

It must, however, be recollected that about six or eight months past, these gentlemen had no Constitutional objections, or conscientious scruples, on this subject. Had they then taken New Orleans and the Floridas, will the gentlemen now tell us that they intended to return it again to those from whom they might have taken it? Would they then have said the Constitution limited them to certain bounds? If so, I would ask what are the Constitutional limitations? It has none, sir, in that respect; and I contend that the treaty-making powers in this country are competent to the full and free exercise of their best judgment in making treaties, without limitation of power; for, on every subject in which that power is called to act, it must act on its own responsibility. Our Government is indeed the Government of the People; the Constitution is the instrument of their choice; it is



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that instrument that grants the power I contend for, and which says that the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur. This power then, sir, passes out of the hands of the people, by their consent, and is vested for the time limited by themselves, and until the period they have chosen for free exercise of their elective rights shall return. On the ground of expediency, little need to be said, and I hope gentlemen will excuse me if I again repeat a desire to know the extent of their objects, when they so loudly clamored for war. Were I as suspicious as themselves, I might readily indulge a belief, from the present state of things, that they wished to check the rising growth of the Western people, by getting them into a war, make them a handsome bow, and leave them to fight their battles. But, happily, our treaty secures us against all such apprehensions, and I hope we shall pass the bill now before you, as necessary for carrying into effect the conditions of our treaty with good faith.

The gentleman from Delaware (Mr. WHITE) should have stated me more correctly; he should have said that I contended, that if his favorite plan of recession took place, that the Power to whom the recession was made would entice our citizens, by every means, and by the very means that the gentleman seems to wish to put in their power, to settle west of the Mississippi; that in an event like that, we might as well pass a law to prevent the fish from swimming up the Chesapeake as to prevent our citizens from migrating to that country. And I again warn gentlemen of the dangerous tendency of such recession, and assure them that I am not among those that believe that France, Spain, or even the British Government, would govern that country more to our interest than we do; nor do I credit a doctrine so absurd as to believe the people of the Western country will abandon their interest, and prostitute their honor, to create dangers so imminent as the gentleman from Connecticut (Mr. HILLHOUSE) seems to apprehend, and who is so fearful of the day in which the Western people shall give laws to the Union; but if ever it should so happen, I hope they will be at least as just and salutary as they were when that honorable gentleman and his friends formed the political majority in this House.

The question was then taken on the passage of the bill, and carried in the affirmative—yeas 26, nays 5, as follows:

YEAS—Messrs. Adams, Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Butler, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Olcott, Plumer, Potter, Israel Smith, John Smith, Stone, Taylor, Worthington, and Wright.

NAYS—Messrs. Hillhouse, Pickering, Tracy, Wells, and White.

FRIDAY, November 4.

Mr. WORTHINGTON, from the committee appointed on the 21st of October last, on the petition of Joseph Harrison and others, and on the propo-

sition contained in the sixth section of the seventh article of the constitution of the State of Ohio, reported "A bill to divide the Indiana Territory into two separate governments, and giving the assent of Congress to the proposition of the convention of the State of Ohio, contained in the sixth section of the seventh article of the constitution of that State;" which bill was read and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

By the copy now communicated of a letter from Captain Bainbridge, of the Philadelphia frigate, to our Consul at Gibraltar, you will learn that an act of hostility has been committed on a merchant vessel of the United States, by an armed ship of the Emperor of Morocco. This conduct on the part of that Power is without cause and without explanation. It is fortunate that Captain Bainbridge fell in with and took the capturing vessel and her prize; and I have the satisfaction to inform you that about the date of this transaction, such a force would be arriving in the neighborhood of Gibraltar, both from the east and from the west, as leaves less to be feared for our commerce, from the suddenness of the aggression.

On the 4th of September, the Constitution frigate, Captain Preble, with Mr. Lear on board, was within two days sail of Gibraltar, where the Philadelphia would then be arrived with her prize; and such explanations would probably be instituted as the state of things required, and as might perhaps arrest the progress of hostilities.

In the mean while, it is for Congress to consider the provisional authorities which may be necessary to restrain the depredations of this Power, should they be continued.

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TH. JEFFERSON.

The Message and papers therein referred to were read and ordered to lie for consideration.

The bill, entitled "An act making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty," was read the second time.

*Ordered*, That it be referred to Messrs ADAMS, TRACY, and BALDWIN, to consider and report thereon to the Senate.

On motion, that it be

*Resolved*, That the Secretary of the Senate be, and he hereby is, authorized and directed to pay, out of the money appropriated to defray the contingent expenses of the Senate, the sum of two hundred dollars, each, to the Doorkeeper and Assistant Doorkeeper of the Senate, in addition to their allowance for services during the last session of Congress:

It was agreed, that this motion lie for consideration.

On motion to take into consideration the resolution of the House of Representatives for an amendment to the Constitution of the United States, it passed in the negative—yeas 12, nays 19, as follows:

YEAS—Messrs. Adams, Anderson, Butler, Dayton, Hillhouse, Maclay, Olcott, Pickering, Plumer, Tracy, Wells, and White.

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**YAYS**—Messrs. Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Nicholas, Potter, Israel Smith, John Smith, Stone, Taylor, Worthington, and Wright.

The Senate took into consideration the motion made on the 2d instant, that a committee be appointed to confer with the Postmaster General, on the expediency of carrying the mail in covered or stage carriages; and the honorable mover having amended his motion,

*Resolved*, That a committee be appointed to consider and report on the expediency of extending the carriage of the mail of the United States, in covered or stage wagons. And it was agreed that Messrs. JACKSON, ANDERSON, and BRADLEY, be this committee.

## MONDAY, November 7.

The Senate took into consideration the memorial of Robert Quillin, presented on the 25th of October last, praying for an augmentation of his pension.

*Ordered*, That it be referred to Messrs. FRANKLIN, TRACY, and ANDERSON, to consider and report thereon to the Senate.

The bill to divide the Indiana Territory into two separate governments, and giving the assent of Congress to the proposition of the Convention of the State of Ohio, contained in the sixth section of the seventh article of the constitution of that State, was read the second time, and referred to Messrs. BRADLEY, TRACY, BALDWIN, WORTHINGTON, and FRANKLIN, to consider and report thereon to the Senate.

The Senate took into consideration the motion made on the 4th instant, authorizing the payment of two hundred dollars each to the Doorkeeper and Assistant Doorkeeper of the Senate; and, on the question to agree thereto, it was determined in the affirmative.

*Resolved*, That when the Senate adjourn, they adjourn to Thursday next; and that the President of the Senate order such repairs and alterations to be made in the meantime in the Senate Chamber as will render the same safe and convenient for the members thereof.

## THURSDAY, November 10.

The credentials of JOHN CONDIT, appointed a Senator by the Legislature of the State of New Jersey, for the time limited in the Constitution of the United States, were presented and read.

*Ordered*, That they lie on file.

Mr. BRADLEY stated in his place that the Legislature of the State of Vermont had passed a resolution that it is highly important that an alteration should take place in the second article of the Constitution of the United States, which prescribes the mode of choosing a President and Vice President, and that a copy of the said resolution should be sent to their Senators and Representatives in Congress, respectively; and the resolution being read, it was moved that the Senate do now proceed to the consideration of the report of the

committee, made on the 24th of October last, on an amendment to the Constitution of the United States respecting the election of President and Vice President. The question being required, it passed in the negative—yeas 9, nays 22, as follows:

**YAYS**—Messrs. Anderson, Butler, Dayton, Hillhouse, Olcott, Plumer, Tracy, Wells, and White.

**NAYS**—Messrs. Adams, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Stone, Taylor, Worthington, and Wright.

## FRIDAY, November 11.

Mr. WORTHINGTON stated in his place that the State of Ohio had passed a "resolution that the Senators and Representative of that State in Congress be requested and instructed to endeavor to obtain an amendment to the first section of the second article of the Constitution of the United States, which shall authorize the Electors of each State to designate on their ballots the person voted for as President and the person voted for as Vice President of the United States;" and the resolution was read.

*Ordered*, That it lie on file.

Mr. ADAMS, from the committee to whom was referred, on the 4th instant, the bill, entitled "An act making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty," reported the same without amendment.

*Ordered*, That this bill pass to a third reading.

A motion was made, that it be

*Resolved*, by the Senate and House of Representatives, That — copies of the laws passed the first session of the seventh Congress be printed, under the direction of the Secretary of the Senate and Clerk of the House of Representatives.

And it was agreed that the motion lie for consideration.

The PRESIDENT communicated a letter from Dewitt Clinton, late a Senator from the State of New York, stating that he had resigned his seat in the Senate.

## MONDAY, November 14.

The PRESIDENT administered the oath required by law to Mr. CONDIT, a Senator from the State of New Jersey.

On motion, the Senate resumed the consideration of the resolution proposed on the 27th of October last respecting the impeachment of John Pickering; and having agreed to an amendment thereto,

*Resolved*, That a committee be appointed to inquire if any, and what, further proceedings at present ought to be had by the Senate respecting the impeachment of John Pickering, made at the bar of this Senate by two members of the House of Representatives on the last day of the last session of Congress; and

*Ordered*, That Messrs. TRACY, BRADLEY, BALD-

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WIN, WRIGHT, and COCKE, be the committee to consider and report thereon to the Senate.

The Senate took into consideration the motion made on the 11th instant for printing — copies of the laws passed the first session of the seventh Congress; and,

*Ordered*, That it be referred to Messrs. TRACY, BALDWIN, and STONE, to consider and report thereon to the Senate.

On motion, that the Senate do now proceed to the consideration of the report of the committee, made on the 24th of October last, on an amendment to the Constitution of the United States respecting the election of President and Vice President, it passed in the negative—yeas 9, nays 22, as follows:

YEAS—Messrs. Anderson, Butler, Dayton, Hillhouse, Olcott, Plumer, Tracy, Wells, and White.

NAYS—Messrs. Adams, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Stone, Taylor, Worthington, and Wright.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I communicate a digest of the information I have received relative to Louisiana, which may be useful to the Legislature in providing for the government of the country. A translation of the most important laws in force in that province, now in press, shall be the subject of a supplementary communication, with such further and material information as may yet come to hand.

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TH. JEFFERSON.

The Message was read, and, with the digest therein referred to, ordered to lie for consideration.

The bill, entitled "An act making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty," was read the third time, and passed.

TUESDAY, November 15.

Mr. WORTHINGTON presented the petition of a number of the inhabitants of the Indiana Territory, praying to be set off into a separate district, for reasons therein stated.

*Ordered*, That it be referred to Mr. BRADLEY and others, the committee to whom were referred, on the 7th instant, petitions on the same subject, to consider and report thereon to the Senate.

A motion was made, by Mr. ANDERSON, that it be

*Resolved*, That the Secretary of the Senate be, and he is hereby, authorized and directed to pay, out of the money appropriated to defray the contingent expenses of the Senate, the sum of two hundred dollars each to the principal and engrossing clerks in his office, for their extra services during the last session of Congress.

And it was agreed that this motion should lie for consideration.

A message from the House of Representatives

informed the Senate that the House have passed a bill, entitled "An act to repeal the act, entitled 'An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage;'" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

WEDNESDAY, November 16.

The bill, entitled "An act to repeal the act, entitled 'An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" was read the second time, and referred to Messrs. ANDERSON, BRECKENRIDGE, and FRANKLIN, to consider and report thereon to the Senate.

The Senate took into consideration the motion made yesterday, to authorize the Secretary of the Senate to compensate his principal and engrossing clerks for their extra services during the last session of Congress; and, on the question to agree thereto, it passed in the affirmative.

On motion, it was agreed that the further consideration of the report of the committee to whom was referred the motion for amendments to the Constitution of the United States, respecting the election of President and Vice President, and also the resolution of the House of Representatives on the same subject, be the order of the day for Monday next.

On motion, by Mr. TRACY, that it be

*Resolved*, That the Secretary of the Treasury be, and he is hereby, requested to lay before the Senate a statement of the payments which have been made by the respective States of the direct tax; distinguishing, as far as may be, the sums which have been paid into the hands of supervisors, and not paid into the Treasury:

It was agreed that the motion lie for consideration.

Mr. BRADLEY, from the committee to whom was referred, on the 7th instant, the bill to divide the Indiana Territory into two separate governments, and giving the assent of Congress to the proposition of the convention of the State of Ohio, contained in the sixth section of the seventh article of the constitution of that State, reported the bill with amendments; which were read, and ordered to lie for consideration.

THURSDAY, November 17.

Mr. TRACY presented the petition of Ezekiel Scott, of the State of New York, praying allowance of compensation for military services; he having acted in the capacity of major in one of the regiments raised by order of the Governor and Council of that State, in the year 1781, to be subsisted at the expense of the United States; and the petition was read, and ordered to lie on the table.

Mr. TRACY also presented the petition of Henry

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Glen, praying compensation for military services and supplies, furnished by himself and others under his authority, during the late Revolutionary war; and the petition was read, and ordered to lie on the table.

The Senate took into consideration a motion made yesterday, that the Secretary of the Treasury be requested to lay before the Senate a statement of the payments of the respective States, of the direct tax, distinguishing the sums received by supervisors, and not paid into the Treasury.

*Ordered*, That it be referred to Messrs. BRADLEY, TRACY, and STONE, to consider and report thereon to the Senate.

FRIDAY, November 18.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the further protection of the seamen and commerce of the United States," in which they desire the concurrence of the Senate.

The bill brought up for concurrence was read, and ordered to the second reading.

Mr. ANDERSON, from the committee to whom was referred, on the 16th instant, the bill, entitled "An act to repeal the act, entitled 'An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled An act to regulate the collection of duties on imports and tonnage,'" reported it without amendment.

*Ordered*, That this bill pass to a third reading.

Mr. BRADLEY reported, from the committee appointed the 17th instant, on the motion to request the Secretary for the Department of Treasury to report on the subject of the direct tax, an amendment; which was adopted; and it was

*Resolved*, That the Secretary of the Treasury be, and hereby is, requested to lay before the Senate a statement of the payments which have been made by the respective States, of the direct tax; designating, as far as may be, what sums have been paid into the Treasury, what sums are retained by the supervisors, what sums are in the hands of the collectors, and the persons in whose hands such moneys are; and the progress that has been made in those States from which no payment hath been received.

A motion was made, by Mr. LOGAN, that it be

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as may have been received relative to the violation of the flag of the United States, or to the impressment of any seamen in the service of the United States, by the agents of any foreign nation.

And it was agreed that this motion should lie for consideration.

MONDAY, November 21.

The bill entitled "An act for the further protection of the seamen and commerce of the United States," was read the second time.

On motion to amend the bill, by adding a proviso to the end of the first section—a motion was

made that the further consideration of the bill, together with the proposed amendment, be the order of the day for Wednesday next; and it passed in the negative. The motion was then resumed, to add a proviso to the first section of the bill; and, after debate, the Senate adjourned.

TUESDAY, November 22,

The Senate resumed the second reading of the bill, entitled "An act for the further protection of the seamen and commerce of the United States," together with the amendment proposed to the first section thereof; and, other amendments having been proposed,

*Ordered*, That the bill, together with the amendments, be referred to Messrs. SAMUEL SMITH, ADAMS, and JACKSON, to consider generally and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act fixing the salaries of certain officers therein mentioned," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill, entitled "An act to repeal the act, entitled 'An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled An act to regulate the collection of duties on imports and tonnage,'" was read the third time and passed.

The Senate took into consideration the motion, made on the 18th instant, relative to the violation of the flag of the United States. Whereupon,

*Resolved*, That the President of the United States be requested to cause to be laid before the Senate such information as may have been received relative to the violation of the flag of the United States, or to the impressment of any seamen in the service of the United States, by the agents of any foreign nation.

*Ordered*, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the report of the committee to whom was referred the motion for amendments to the Constitution of the United States, respecting the election of President and Vice President; and, after debate,

*Ordered*, That the consideration thereof be postponed.

WEDNESDAY, November 23.

The bill, entitled "An act fixing the salaries of certain officers therein mentioned," was read the second time, and referred to Messrs. BRADLEY, BALDWIN, and SAMUEL SMITH, to consider and report thereon to the Senate.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 22d instant, the bill, entitled "An act for the further protection of the seamen and commerce of the United States," reported the bill with amendments; which were read, and ordered to lie for consideration.

NOVEMBER, 1803.

*Amendment to the Constitution.*

SENATE.

## AMENDMENT TO THE CONSTITUTION.

The Senate resumed the consideration of the report of the committee to whom was referred the motion for an amendment to the Constitution in the mode of electing the President and the Vice President of the United States; whereupon, the President *pro tem.* (Mr. BROWN) submitted to the consideration of the Senate the following question of order:

"When an amendment to be proposed to the Constitution is under consideration, shall the concurrence of two-thirds of the members present be requisite to decide any question for amendments, or extending to the merits, being short of the final question?"

[A debate took place on this proposition, tedious, intricate, and desultory, which it was very difficult to follow, and often to comprehend.]

Mr. ADAMS was of opinion that on *all* questions involving the amendment two-thirds of the votes were requisite, but not on any of the forms of proceedings on the subject.

Mr. DAYTON thought two-thirds necessary on all questions upon which the amendment might ultimately depend; that the reasoning in the case of treaties would apply here as well in a single principle as on the aggregate.

Mr. FRANKLIN differed altogether from the last speaker. He considered all the preliminary proceedings, previous to the ultimate vote, subject to the decision of an ordinary majority. The motion here is a simple proposition, involving the mode of proceeding in that House, and could not affect the final vote on the amendment, which must be carried by two-thirds. The amendment will come fairly before the House for discussion by the vote of a simple majority; but subject the House to the control of two-thirds in the first instance, and discussion itself is obstructed—you can neither strike out nor insert.

Mr. WRIGHT supposed that the forms of proceeding in that House hitherto observed would not be departed from. It had never been considered that a preliminary question in proceedings was to be decided upon as a final question of amendment of the Constitution. Such a form of proceeding would leave it in the power of a minority to arrest every proposition on such a subject before it passed the threshold; and it might even put it in the power of the Vice President himself to decide a question, though in the eye of the Constitution he is not a member of the Senate at all.

Mr. MACLAY.—This appears to me a very simple question: it is no other, in fact, than whether the House may or may not determine its rules of proceeding. Now, he was convinced that the Constitution had already settled this question; by declaring that each House shall be competent to establish its own rules. It was in the nature of things necessary, and it was fair to infer that in Legislative proceedings the simplest form was most eligible: who would apply a clumsy apparatus while one simple and sufficient was at hand? The gentleman from North Carolina (Mr. FRANKLIN) had made the proper distinction. Treaties bore no analogy to forms of proceeding. We may ob-

ject to a treaty, in the whole or in part, even after it had been negotiated and communicated to us by the proper authority. How we shall proceed upon measures originating with ourselves is a different subject.

Mr. DAYTON never suggested that we have no right to form rules for our own proceedings: he did not consider the question itself so much a Constitutional one as of expediency.

Mr. HILLHOUSE said, it was a matter of indifference to him how the House proceeded on the question, so that the rules of the Senate may not be embarrassed. The question appeared to him now to be principally the best mode of taking up the subject for deliberation.

Mr. TAYLOR.—The gentleman from New Jersey (Mr. DAYTON) has acknowledged, and the gentleman from Connecticut (Mr. HILLHOUSE) has concurred in the sentiment, that this amendment is not so much a Constitutional question as one of expediency and form. In this view, the gentlemen must consider that they cannot take from the Vice President a right which he possesses to a Constitutional equality in the election, as the Constitution declares (article 2, section 1) that the President "shall hold his office during the term of four years, and, together with the Vice President, be chosen for that term." No right of expediency can find room in this place: if there be any, gentlemen will of course show it. The gentleman from Pennsylvania (Mr. MACLAY) had felt no doubt on his mind on the subject.

Mr. BUTLER.—It never was intended by the Constitution that the Vice President should have a vote in altering the Constitution: whatever of the arguments of gentlemen relate to that point falls to the ground. The question now before the House is, whether, when a general proposition is brought up, shall the same number of two-thirds be requisite to decide upon its admission, as upon the subsequent and perfecting vote? In his opinion the same number was necessary. So, on a motion formerly made by a gentleman from New Jersey, (Mr. DAYTON,) for striking out all that related to the Vice President, he thought two-thirds were necessary to a vote of that kind, as the striking out would go to an alteration of the Constitution. On minute alterations of the letter or phraseology, which did not involve the principle, perhaps a simple majority would be sufficient.

Mr. COCKE considered the House as competent to the formation of its own rules, and was opposed to this new mode of proceeding, evidently calculated only to embarrass.

Mr. HILLHOUSE thought the decision on this question perfectly analogous to the cases which arise on treaties. Suppose that two-thirds of the Senate present concur with the proposition of the bill now before the Senate from the House of Representatives, and a majority agree to strike out a part?

Mr. WRIGHT.—Gentlemen cannot or will not keep it in mind that the proposition before the House is not an alteration of the Constitution, but the formation of a proposition upon which two-thirds of the House must ultimately decide,

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and, after which decision, must go to the several States, and depend for its final adoption upon three-fourths of the States. It does not, as the gentleman from Connecticut (Mr. HILLHOUSE) seems to assume, require two-thirds of the Senate to prepare and propose an amendment to a treaty; it is the principal confirmation or ratification only that requires two-thirds.

Mr. JACKSON was not averse to a postponement; though he did not approve of the idea of the gentleman from New Jersey, (Mr. DAYTON,) concerning the abolition of the Vice President's office. If the Senate would postpone, a committee might be appointed who would search for precedents, and report by Monday or on some other day. He moved to postpone, seconded by Mr. BRADLEY; lost—ayes 15, noes 16.

Mr. PICKERING.—There appears to me so close an analogy between the proposed amendment and the case of treaties, that it ought to govern. The striking out of a part of the Constitution must be considered as an amendment, for if a part is struck out it is no longer the same thing; he did not approve of subjecting a Constitution to repeated alterations.

Mr. ISRAEL SMITH.—This appears to be a very important Constitutional question; and in fixing the principle, care is requisite, though he did not see why it should not be done as early as possible. All our details of bills go through the forms of reading and engrossing; they are read and considered section by section and clause by clause, so that nothing shall be admitted but by a majority. Then, why not, in the debates of an amendment, use the same precautions? If you admit amendments to the Constitution by a common majority, it appears that there is not the same precaution.

Mr. TAYLOR.—The gentleman's arguments were entitled to an answer; but a short one would be sufficient. The analogy with treaties is no more perfect than that with relation to ordinary Legislative acts. Treaties originate with the Executive, with a power over which there is always entertained a salutary jealousy. On the other hand, a law must have the consent of the President after it has passed both Houses; if the President refuses his consent, the whole is inchoate, and two-thirds of both Houses may, *non obstant*, pass the law without that consent; and here only the cases are analogous. We may proceed to give a law perfection in its preliminary stages, so may we discuss an amendment; but to the ultimate perfection of the thing, two-thirds are required. If the doctrine held by some gentlemen were to prevail, it would be difficult ever to amend the Constitution, be its imperfections ever so great.

Mr. HILLHOUSE was convinced, by the arguments of the gentleman from Vermont, (Mr. I. SMITH,) that this was a question of the first magnitude. In the case of a law to which the President denies his concurrence, when it is returned to both Houses, no amendment can be made thereto, it must pass altogether by two-thirds, or is lost. Again: If you were to move to strike out a part of the amendment, it would appear by the vote on your journals that the question had not

been decided by two-thirds. In the passage of laws it is understood that all parts of a law must have a majority of votes, but it is also well understood that different parts of the same law will not obtain the same number of votes, and that some will vote against particular parts who approve of the rest, yet that the whole must have a majority. He never doubted that a proposition for an amendment may be admitted by a majority for discussion; but it was no more a conclusion that two-thirds were not necessary on a vote involving the principle during the discussion, because there was to be a final vote, than that two-thirds would not be necessary on the last vote here, because it is not final in relation to the other House.

Mr. ANDERSON proposed to postpone the subject till to-morrow.

Mr. TRACY also wished to postpone to next day.

Mr. NICHOLAS hoped the question would be decided before the House rose; and as it was a simple question of order, he wished the wholesome rule of the other House to be pursued, to decide the questions of order without debate.

The question to postpone being taken, was lost—ayes 14, noes 16.

The proposition offered by the President was then called up for decision, whether two-thirds were necessary—ayes 13, noes 18.

Mr. BUTLER desired to know from the President if the question now decided did not require a majority of two-thirds?

The PRESIDENT said, according to the rule of the House, the question required only a principal majority to decide it.

Mr. DAYTON's motion for striking out what related to the Vice President was called for, and the question taken on striking out—ayes 12, noes 19.

The report of the committee at large being then under consideration,

Mr. NICHOLAS moved to strike out all following the seventh line of the report, to the end, for the purpose of inserting the following:

"In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and, in distinct ballots, the person voted for as Vice President, of whom one at least shall not be an inhabitant of the same State with themselves. The person voted for as President, having a majority of the votes of all the Electors appointed, shall be the President; and if no person have such majority, then from the three highest on the list of those voted for as President, the House of Representatives shall choose the President in the manner directed by the Constitution. The person having the greatest number of votes as Vice President, shall be the Vice President; and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution; but no person constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States."

Mr. ADAMS objected to the number "three" instead of five, and wished five to be restored, as

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the House of Representatives had already agreed to it. He asked for a division of the question; which was not agreed to.

Upon the question for striking out being put, it was carried without a dissenting voice, and the amendment of Mr. NICHOLAS adopted in the report, leaving the number blank.

Mr. DAYTON moved to fill up the blank with the number five; upon the question being put, it was lost—only eleven rose in the affirmative.

Mr. ANDERSON moved to strike out the word "two" in the nineteenth line—ayes 6. Lost.

Mr. S. SMITH then moved to fill the blank with the word "three;" which was carried—ayes 18, noes 13.

Mr. ADAMS suggested an objection to the amendment as it stood, which appeared to arise out of the treaty of cession of Louisiana. His original idea was adverse to the limitation to natural-born citizens, as superfluous; but, as it stood, the terms upon which Louisiana was acquired had rendered a change necessary, for it appeared to him that there was no alternative, but to admit those born in Louisiana as well as those born in the United States to the right of being chosen for President and Vice President.

Mr. BUTLER said that, if there was a numerous portion of those who were already citizens of the United States who can never aspire to, nor be eligible for, those situations under the Constitution, he did not see how this supposed alternative could be upheld. The people of Louisiana, under the treaty and under the Constitution, will clearly come under the description of naturalized citizens. While he was up, he would take the opportunity of speaking to the question at large, and to examine the motives which produced this amendment; the principal cause of solicitude, on this subject, he understood to be the base intrigues which were said to have been carried on at the Presidential election.

Mr. WRIGHT called to order; and a short altercation on the point of order took place.

Mr. BUTLER proceeded. He had on a former day asked if he might, in this stage of the discussion, take a view of the whole subject; the House had decided in the affirmative. When the proposition was first laid before the House, he had felt a disposition in favor of it; his mind had been shocked by those base intrigues, which had taken place at the late Presidential election, and he was hurried by indignation into a temper which a little cool reflection and some observation on a particular mode of action in that House, had checked and corrected, and finally convinced him that much caution was required in a proceeding of that nature, and that, in all human probability, such a scene of intrigue may never occur again; that it became questionable whether any steps whatever were necessary. Upon a careful review of the subject, it appeared to him that an alteration might make matters worse; for though at present there has been afforded, by a course of accidents and oversights, room for intrigue, it would be preferable to leave it to the care and discretion of the States at large to prevent the recurrence of the

danger, than put into the hands of four of the large States the perpetual choice of President, to the exclusion of the other thirteen States. It was a reasonable principle that every State, should, in turn, have the choice of the Chief Magistrate made from among its citizens. The jealousy of the small States was natural; and he would not tire the House by bringing to their ears arguments from the history of Greece, because the subject must be familiar to every member of that House, and, indeed, to every school-boy. He would not weary them with the painful history of the conflicts of Athens and Sparta, for the supremacy of Greece, and the fatal effects of their quarrels and ambition on the smaller States of that inveterate confederacy of Republics. Their history is that of all nations in similar circumstances; for man is man in every clime, and passion mingles in all his actions. If the smaller States were to agree to this amendment, it would fix for ever the combination of the larger States, and they would not only choose the President but the Vice President also in spite of the smaller States. It would ill become him who had been a member of that Convention which had the honor of forming the present Constitution to let a measure such as the present pass without the most deliberate investigation of its effects. Before the present Constitution was adopted all the States held an equal vote on all national questions; by the Constitution their sovereignty was guaranteed, and the instrument of guarantee and right, he had subscribed his name to as a Representative from South Carolina, and had used all the zeal and influence of which he was possessed to promote its adoption. To give his assent to any violation of it, or any unnecessary innovation on its principles, would be a deviation from morality.

He had heard it said with confident boldness that experience had shown the necessity of amendment, and that the Constitution had already undergone correction. But gentlemen should show him that healing a wound and cutting off a limb were operations not of a different nature and different degrees of danger. He did not mean, nor did he apprehend that the proposed amendment would cut off any State in the Union, but he was persuaded that it would cut off the weight and the influence of many of the small States.

He had been told that the people of the United States called for this amendment. How had this sense been collected? It was a difficult matter to collect their sense; the great variety of habits, the diversity of climates, the space over which they are spread, the different modes of education and way of thinking, all render it difficult to ascertain the general sentiment, and he who says the people at large wish for this amendment, in my judgment, hazards greatly the respectability of character.

It is urged that the people did feel great indignation at the scenes which were exhibited in the House of Representatives on a former election; and that the people might be hurried into strong and dangerous measures to prevent the recurrence of scenes so disreputable to republican Govern-



ment. But if the people knew and would see all the points tending to one extreme line, they would take care to inquire whether, in endeavoring to avoid a weather shore, they had not forgotten the lee one. If the people are to have a master, Mr. President, it is indifferent whether they are to be bowed down by an insolent individual oligarchy, or a proud and haughty aristocracy of States, if, in the change of masters, the only change that is experienced is a change of habits.

But where, sir, is the danger of letting the choice ultimately go to the Legislatures? If there is danger it is certainly wrong to send it to any Legislature; yet we find the Constitution admits of considerable Legislative authority in the organization of various Constitutional powers; the fact carries with it some evidence of the principles of that instrument. What is the purport of this amendment but to cut off a part of that solemn compact, the result of four long months' deliberation, where low ambition or the pride of States never found admission, and where disinterested patriotism and the light of virtue only found access? But, sir, there are motives operating in this body, and promoting this amendment, which, though not prominent, are powerful; it is said, if you do not alter the Constitution, the people called Federalists will send a Vice President into that chair; and this, in truth, is the pivot upon which the whole turns. When we were as Republicans out of power, did we not reprobate such conduct? Shall we then do as they did? Shall we revive party heat? No, he hoped not; but that, by a just and mild policy, we should evince that we would do as we would be done by.

The question was immediately taken, on the report and carried—yeas 20, nays 11.

Mr. ADAMS said, that though he had voted for the amendment, he disapproved of the alteration from five to three. He felt, however, though a representative of a large State, a deep interest in this question. Was there no champion of the small States to stand up in that House and vindicate their rights?

Mr. DAYTON was not here as champion of the small States; but, as the representative of one of them, he was ready to enter his protest against being delivered over bound hand and foot to four or five of the large States. The gentleman from South Carolina had offered arguments on the subject irrefutable. The little portion of influence left us he has demonstrated to be now about to be taken away, and the gentleman from Massachusetts, (Mr. ADAMS,) after aiding the effort with his vote, has taken mercy upon us, and after he has helped to knock us down, asks us why we do not stand up for ourselves.

Mr. S. SMITH was not surprised to find those who were members of the old Congress, in which the subject of large and small States was frequently agitated, familiar with the subject of those days. Under the present Constitution he had been ten years in Congress and had never heard the subject agitated, nor the least ground given for any apprehension on this subject; he had seen the small States possess all the advantages secured to

them without even a moment's jealousy. The State he represented was once considered a large State, the increase of others in population however had rendered it properly belonging to neither class; it was an intermediate State; but from the natural progression of the Union it must be ranked among the small States. In this view then he could speak dispassionately, and the small States could not with reason be apprehensive that a State, which must speedily take rank among them, could be indifferent to their rights if there were the least cause for apprehension.

He had moved for the insertion of three instead of five, with this precise and special intention, that the people themselves should have the power of electing the President and Vice President; and that intrigues should be thereby forever frustrated. The intention of the Convention was that the election of the chief officers of the Government should come as immediately from the people as was practicable, and that the Legislature should possess the power only in such an exigency as accident might give birth to, but which they had considered as likely to occur. Had it not been for these considerations, the large States never would have given up the advantages which they held in point of numbers. If the number five were to be continued, and the House of Representatives made the last resort, he would undertake to say that four times out of five the choice would devolve upon them. Diminish the number to three, and the compromise of two and two between the opposing parties, which has heretofore prevailed, will be superseded by an opposition of one on each side for President, and a third between both for Vice President. The question of small and large State interests is not at all involved in this question; it is a mere matter of imagination; and if it were at all real, it would perhaps be found to operate differently from what is supposed. There are many of the States, which are now small in reference to their population, which must already feel the influence, if any exists, of their being very soon likely to become large States. Georgia, Tennessee, and Kentucky, were of this description; in less than ten years these States will be larger than many now called large States, and their circumstances alone would be a sufficient guard against those dangers apprehended. He would be one of the last to doubt the virtue and the wisdom which framed the present Constitution; but, like other gentlemen, he was aware of the fallibility of the wisest of mankind; the founders of that Constitution had taught him the important lesson, for they had provided in that instrument a remedy for their own inexperience or fallibility; and time has in this instance, as in numerous others, proved their uncommon wisdom, for evils have arisen which though they could not foresee, they have provided the means to correct them: they could not have foreseen the danger to which the country was exposed at the late election; they could not have believed, that at so short a distance from the foundation of the Constitution, the country escaped from a civil war only from the prevalence of that kind temper, and



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magnanimity in the Legislature, which prevailed in the Convention itself. And shall we not do all that is in our power to avoid the recurrence of similar danger? Had the gentleman from South Carolina (Mr. BUTLER) been present at this critical period, he would have felt, as many of his friends felt, a serious and restless anxiety. Two candidates before the House—party spirit high; the one determined to support the candidate upon whom public affection and confidence had unequivocally centered; the other seeking to place in the Executive Chair, not a candidate of their original choice, but a candidate through whom they wished to retain at least a share of power; unsuccessful in that effort, bringing forward a proposition to create a President; and how? By a law to be passed for the purpose, and in which the person was to be named, leaving the votes and choice of the people out of consideration altogether. Had this been effected, what other result would follow but civil war? Without pretending to be in the counsels of either party on that occasion, he believed that civil war was seriously apprehended, and so much so, that he felt perfectly convinced, that had a choice been made in the way proposed, and a person could be found to accept it, that his head would not have remained on his shoulders for twenty-four hours afterwards. Dangers of this kind he was solicitous to avoid; and by that mild and benignant mode provided by the Constitution, that of amendment to the Constitution.

Mr. HILLHOUSE.—In avoiding rocks he feared we were steering for quicksands. The evils that are past we know; those that may arrive we know not. The object proposed is to provide against a storm, a phenomenon not rare or unfrequent in Republics. You are called upon to act upon a calculation that all the States in the Union will vote for the same persons, or that each of two parties opposed in politics will have an individual candidate. Suppose the two candidates who had the highest votes on the late election had been the champions of two opposite parties, and that neither would recede, what then would be the consequence; according to the gentleman from Maryland, a civil war! When men are bent on a favorite pursuit, they are too apt to shut out all consequences which do not bear out their object. Thus gentlemen can very well discover the danger they have escaped, but they do not perceive that the opposition of two powerful candidates gives, besides the hazard of civil war, the hazard of placing one of them on a permanent throne. The First Magistracy of this nation is an object capable of exciting ambition; and no doubt it would one day or other be sought after by dangerous and enterprising men. It was to place a check upon this ambition that the Constitution provided a competitor for the Chief Magistrate, and declared that both should not be chosen from the same State. Here also was a guard against State pride, and this guard you wish to take away; and what will be the consequence? Instead of two or three or five, you will have as many candidates as there are States in the Union.

By voting for two persons without designation, the States stood a double chance of a majority, besides the chance of a majority of all the States in the House of Representatives. For once or twice there may be such an organization of party as will secure for a conspicuous character the majority of votes. But that character cannot live always. The evil of the last election will recur, and be greater, because the whole field will be to range in.

He hoped this amendment would not be hastily adopted. The subsisting mode was the result of much deliberation and solemn compromise, after having long agitated the Convention. It is now attacked by party; whatever gentlemen may say to the contrary; the gentleman from South Carolina has confessed it. If gentlemen will suffer themselves to look forward without passion, great good may come from the present mode; men of each of the parties may hold the two principal offices of the Government; they will be checks upon each other: our Government is composed of checks; and let us preserve it from party spirit, which has been tyrannical in all ages. These checks take off the fiery edge of persecution. Would not one of a different party placed in that chair tend to check and preserve in temper the over-heated zeal of party? he would conduct himself with firmness because of the minor party; he would take care that the majority should have justice, but he would also guard the minority from oppression. If we cannot destroy party we ought to place every check upon it. If the present amendment pass, nine out of ten times the election will go to the other House, and then the only difference will be that you had a comedy the last time, and you'll have a tragedy the next. Though it was impossible to prevent party altogether, much more when population and luxury increase, and corruption and vice with them, it was prudent to preserve as many checks against it as was practicable. He had been long in Congress and saw the conflicting interests of large and small States operate; the time may not be remote when party will adopt new designations; federal and republican parties have had their day, their designations will not last long, and the ground of difference between parties will not be the same that it has been; new names and new views will be taken; it has been the course in all nations. There has not yet been a rotation of offices in which the small States could look for their share, but the time may, it will come when the small will wrestle with the large States for their rights. Each State has felt that though its limits were not so extensive as others, its rights were not disregarded. Suffer this confidence to be done away, and you may bid adieu to it; three or four large States will take upon them in rotation to nominate the Executive, and the second officer also. This will be felt. A fanciful difference in politics is the bugbear of party now, because no other, no real cause of difference has subsisted. But remedy will create a real disease. States like individuals may say we will be of no party, and whenever this shall happen blood will follow

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Mr. BRADLEY moved an adjournment. The motion was agreed to.

THURSDAY, November 24.

Mr. COCKE gave notice that he would, to-morrow, ask leave to bring in a bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky.

#### AMENDMENT TO THE CONSTITUTION.

The consideration of the report on the amendment to the Constitution being taken up; the amendment as directed to be printed on the preceding day, was taken up, and read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendment be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes, as a part of the said Constitution, viz:*

In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and, in distinct ballots, the person voted for as Vice President, of whom one at least shall not be an inhabitant of the same State with themselves. The person voted for as President having a majority of the votes of all the Electors appointed, shall be the President, and if no person have such majority, then from the three highest on the list, of those voted for as President, the House of Representatives shall choose the President in the manner directed by the Constitution. The person having the greatest number of votes as Vice President, shall be Vice President; and in case of an equal number of votes for two or more persons for the Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution; but no person Constitutionally ineligible to the office of President, shall be eligible to that of the President of the United States.

Mr. BRADLEY did not approve of the amendment, as it now stood; he could not see why the Vice President should not be chosen by a majority, as well as the President. He considered the possibility of the Vice President becoming President by any casualty, as a good reason for both being chosen by the same ratio of numbers. If it should be carried as the amendment now stands, the office of Vice President would be hawked about at market, and given as change for votes for the Presidency. And what would be the effect?—that it might so happen that a citizen chosen only for the office of Vice President might, by the death of the President, though chosen only by a plurality, become President, and hold the office for three years eleven months and thirty days. He did not approve of many arguments which he had heard on the preceding day, and however disposed to concur in the principle of designation for the two offices, he could not give it his vote in the present

shape. He would, in order to render the report more congenial with his wishes, move to strike out the following words beginning with the words *shall*, in the thirteenth line, to *Constitution*, in the eighteenth. The motion was seconded.

Mr. TRACY opposed the striking out, as not in order, it being an amendment to an amendment already received by the House. He thought however it would be in order to reconcile the whole, and then any part might be amended.

The PRESIDENT said that the motion for amending the amendment was not in order; but if the member from Vermont, or any other gentleman of the majority on the question yesterday, chose to move for a recommitment, or even to refer the report to a select committee, it would be in order.

Mr. BRADLEY said that he held it to be a sound truth that in legislating we ought not to be afraid of using words to express our meaning as far as language could go; he thought that there was a deficiency of words and a deficiency of meaning, which if suffered to go abroad would be attended by great inconvenience. He would move for the reference of the report to a select committee, and that they be instructed to insert in the room of the words he before proposed to omit, the words, "if such number be the majority of the whole number of Electors appointed; and if no person have a majority, then from the two highest on the list the Senate shall choose the Vice President."

He would also move that the committee be instructed to insert after the word President, in the tenth line, the following words: "But in choosing the President the votes shall be taken by States, the Representatives from each State having one vote; and there shall be two-thirds of the representation of the States to form a quorum."

Mr. WRIGHT, to give the gentleman an opportunity to discuss his subject, as one of the majority on the question of yesterday, moved for a reconsideration of the whole report.

Mr. BRADLEY was not disposed to favor reconsideration; the custom he took was borrowed from the town-meetings to the Eastward; if this practice were to be pursued, we should be called upon at the end of a session to reconsider the proceedings of the first, and reduce the Senate even below a New England town-meeting.

Mr. ADAMS had no objection to a recommitment, as he considered that one or two further alterations were extremely necessary. He could foresee a probable case which he thought ought to be provided against; and one or two simple expressions would answer the end. He could conceive no election to take place under the form proposed, and the election of a Chief Magistrate was not in his mind a matter of small moment. He would suppose that there should not be three persons voted for; or that, though three or more should be voted for, that none should have an actual majority. What would your situation be then? He would suppose another case, that there were two who should have the highest, and yet an equal number of votes, and that there were to be a third and fourth who should have equal numbers also—how could the *three* highest be found in this

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case, when the third and fourth persons were equally high in votes?

Mr. TAYLOR was against the recommittal, because he had no doubt that the ingenuity of gentlemen would, upon amendment in a committee, discover new defects and motives for amendment. The gentleman from Vermont (Mr. BRADLEY) had however stated a new idea; the Constitution does not require a majority in the choice of a Vice President, after the choice of President shall have been made, but says "in every case, after the choice of a President, the person having the greatest number of votes shall be the Vice President"—purposely omitting "a majority of the whole," as in the case of the President; but the gentleman, who disapproves of amending, wishes to carry amendment farther and to render the difficulty more difficult. He would oppose recommitment, for if this new principle were necessary the gentleman could introduce it in the shape of a new amendment to the Constitution. With respect to the simple expressions which the gentleman from Massachusetts proposed to insert, and which appeared to him to promise with so much facility such great advantages, he should be glad to see them introduced. But he thought that in one case as well as in the other, of those which he had suggested as necessary to provide against, no difficulty whatever existed. For it appeared plain enough to him that if only two had the highest numbers and equal, that one of the two would be preferred to an extension of choice to a third who had not an equal number of votes, and that the selection of one of the two would be in fact a choice from one of the three highest; so in the case of the third and fourth, though they might have also an equal number of votes, he could perceive no difficulty; if there were even four of them, the choice out of any three of the four would be a correct choice.

Mr. DAYTON—Gentlemen appear to forget that the Chair has decided that no words can be introduced into the amendment already adopted, and consequently that a recommitment is the only course left. The gentleman from Virginia (Mr. TAYLOR) objects to the proposition of the gentleman from Vermont, (Mr. BRADLEY,) upon the ground that it seems too sacred to touch it, as there exists already a different principle in the Constitution; but though he considers it too sacred, he nevertheless recommends as a remedy the introduction of a new resolution separately and in opposition to that sacred principle. We have been hitherto trammelled by incongruous rules, but here an amendment is proposed to be got rid of by a side wind.

Mr. TRACY could not see why a Vice President should not be chosen by a majority instead of a plurality as well as President—he was for the recommitment.

Mr. S. SMITH supposed that if the motion of the gentleman from Vermont should be lost, it would be then in order to move a reconsideration. He could not see, with that gentleman, anything exceptionable in town-meetings, nor could he discover that town-meetings in New England were

more exceptionable than elsewhere, unless there was anything specially wrong transacted at them. The practice of reconsideration was familiar in all Legislative bodies; and it was in the nature of legislation that it should be so; for new knowledge as well as new circumstances render it necessary to reconsider and revive long established laws.

The motion for referring to a select committee was then lost—yeas 15, nays 16.

Mr. WRIGHT then renewed his motion for a reconsideration.

Mr. BUTLER disapproved of the rule of the House which authorized this mode of reconsideration in so loose a way; he thought that no subject discussed should be reconsidered without an unanimous vote; if that practice was pursued it would prevent a great abuse and waste of time. In the present mode it matters not whether it is a thin or a full House; any member of the majority has the House at his mercy.

Mr. TRACY did not comprehend the meaning of the gentleman in demanding a reconsideration—did he mean to reconsider the whole day's work?

Mr. S. SMITH said his colleague meant, as he meant, to reconsider the amendment made yesterday to the report of the committee.

Mr. TRACY did not suppose that the House was to reconsider the rule of order as to the majority; nor six or seven other motions; but unless the gentleman specifies the subject to be reconsidered, the motion will necessarily comprehend the whole day's work.

Mr. DAYTON understood it to be confined to the amendment of the resolution.

Mr. PLUMER requested the motion to be committed to writing; which was done, and the motion was carried.

Mr. BRADLEY then renewed his motion as before, for striking out and inserting after the 13th line; this amendment he thought of great importance, as under the Constitution as it now stands the Vice President must be a person of the highest respectability, well known, and of established reputation throughout the United States; but if the discriminating principle prevails without some precautions such as the amendment proposed, that assurance would be lost; and he should not be surprised to hear of as many candidates for Vice President as there are States, as the votes for President would be offered in truck for votes for Vice President, and an enterprising character might employ his emissaries through all the States to purchase them, and your amendment lays the foundation for intrigues. He was desirous that he who is to be set up as candidate for the Vice President should as at present be equally respectable, or that there should be none—that at least he should be the second man in the nation; adopt the designating principle, without the most guarded precautions, and you lose that assurance.

Mr. HILLHOUSE accorded with the gentleman's amendment, as it naturally grows out of the principles of the report. There was not a word in the Constitution about voting for the Vice President, no vote in fact is given for such an office; the al-

teration to designation alters the whole thing; and as the gentlemen has expressed, will send the Vice President's office into market to be handed about as change for the candidate supported by larger States; he would prefer leaving the choice of President and Vice President at once to the larger States than take it in this way. In calm times any government may work well, but he wished in calm times to provide against storm. If we designate any, then designate both and on equal terms.

Mr. WRIGHT's object was the discriminating principle, or the designating principle in its most simple and efficacious form; but this by no means authorized the abridging of the rights of the small States; nor could it be shown in argument that the designating principle would have such an effect. The provision that not more than one of the two candidates should be voted for in the several States, showed that the lesser States were equally guarded with the rest: upon the incidental election in the House of Representatives the same guardianship of the smaller States was conspicuous—the Union was the result of a fair compromise, and the designation in no way departs from it. The amendment proposed, so far as it went to decide the choice of Vice President by a majority instead of a plurality, as the Constitution now stands, he approved, as it was the principle most consonant with the spirit of representative democracy, that no officer should be elected but by a majority; as it now stands, admitting a choice by a plurality, there were contrary principles received. He saw no difficulty in the event of an election of Vice President not being made, as it might be done by this House. The idea he acknowledged he had borrowed from the resolutions of March 4, 1800, passed by the Legislature of Massachusetts, and forwarded to their representatives in Congress; the recommendation of an alteration in this part of the Constitution originated in Vermont, but was adopted and forwarded by Massachusetts.

*Commonwealth of Massachusetts.*

IN SENATE, Feb. 28th, 1800.

Whereas the Legislature of the State of Vermont, on the fifth day of November, last, passed two resolves in the words following, viz:

“STATE OF VERMONT.

*In General Assembly Nov. 5, 1799.*

*Resolved*, That the Senators and Representatives of this State in the Congress of the United States be, and they hereby are, requested to use their best endeavors that Congress propose to the Legislatures of the several States the following amendment to the Constitution of the United States, viz: That the Electors of President and Vice President in giving in their votes, shall respectively distinguish the person whom they desire to be President from the one they desire to be Vice President, by annexing the word President or Vice President, as the case may require, to the proper name voted for; and the person having the greatest number of votes for Vice President, if such number be a majority of the whole number of Electors chosen, shall be Vice President; and if there be no choice, and two or more persons shall have the highest number of votes, and those equal, the Senate shall immediately choose by ballot one of them for Vice President; and if no person have a majority, then from the five highest on the list, the

Senate shall in like manner choose the Vice President; but in choosing the Vice President, the votes shall be taken by States, the Senators from each State having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the States; and a majority of all the States shall be necessary to a choice. And in case the Senators and Representatives of this State in Congress, shall find that the aforesaid amendment is not conformable to the sentiments of a Constitutional majority of both branches of the National Legislature, they are hereby requested so to modify the same as to meet the sentiments of such majority.

*Provided, however*, That any amendment which may be agreed on, shall oblige the Electors to designate the person they desire to be President, from the one whom they desire to be Vice President.

*Resolved*, That his Excellency the Governor be requested forthwith to transmit the same to the Supreme Executives of the several States.”

Which resolves have been communicated by the Supreme Executive of the State of Vermont to the Supreme Executive of this Commonwealth.

*Resolved*, That the Legislature of this Commonwealth have a high sense of the wisdom and patriotism of the Legislature of the State of Vermont, and accord with them in the opinion, that it is expedient that the Constitution of the United States be amended in the manner contemplated in the aforesaid resolves of the Legislature of the State of Vermont.

*Resolved, further* That the Senators and Representatives of this State in the Congress of the United States be and they are hereby requested to adopt the necessary measures to effect the amendment aforesaid.

*Resolved, further*, That his Honor the Lieutenant Governor be and he is hereby requested to communicate the foregoing resolves to the Supreme Executive of the State of Vermont, and also to transmit copies thereof to the Senators and Representatives of this Commonwealth in the Congress of the United States.

Approved, March 4th, 1800.

The propriety of this House choosing its President he considered as perfectly conformable to the principles of the Constitution. The House of Representatives never vote by States but when the election of President devolves upon them; the Senate never; but he did not see why it should not be so in the event of a non-election of Vice President by the want of a majority. As to the number from which the choice was to be made, he cared not whether it were three or five—he considered the principle of designation as everything, and the number but as trimmings to the cloth. He would recommend it to the gentleman from Vermont so to alter his amendment as to render an election in the House the resort, in the defect of a majority; he was for the choice being made not in the numerical capacity of the members, but by States.

Mr. BRADLEY considered the provision of voting in the House of Representatives by States, as a good one in the particular case. But he did not think it necessary here, because this House already represents States equally; a member or members, may, it is true, be absent, but then that is a great neglect of duty, and subjects to heavy responsibility the absent member. Under the present order of things a State may have no vote, though both its Representatives are present, for A and B

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may vote differently; if five or six States were in the same predicament, a case not very unreasonable to suppose, then there would not be a majority.

The question was then put, and Mr. BRADLEY's motion carried.

Mr. BRADLEY then moved his amendment in the 16th line as above cited, to be inserted in the place of the words, "in the manner directed by the Constitution." He observed this amendment would render it necessary in order to avoid confusion to repeal the section which comes within its purview; if no manner of election is pointed out, it will be impossible to tell what construction to put upon it; and instruments of this important nature cannot be expressed in language too explicit. If a provision, such as is offered, should not be adopted, might not the House of Representatives consider themselves at liberty to choose by the numerical vote? It is true that any vote we may here give will not alter the principle, but it is proper that provision be now made that no mistaken interposition take place at a future time.

Mr. ADAMS said, if he understood the state of the question, the principle relates in the most important degree to the numbers from which the choice should be made—as it now stood he could not say whether three or five was the number to be chosen from; he hoped the Senate would determine whether the choice was to be made from the highest numbers in all cases; or to make provision specially for either case of five or three; if the choice was to be fixed by the number five, then he conceived that the words from the whole number, if less than five, should be introduced. He was himself in favor of the number five, because by taking three you reduce the power of the small States, and their chances in the House of Representatives; for certainly it is a much higher power to elect from five than from three. He questioned whether the House of Representatives would part from that number, for in general popular bodies are very tenacious of power; it is in their nature, and so in a degree are Senates.

Mr. DAYTON said, the remarks of the gentleman (Mr. ADAMS) in favor of small States were too precious to be lost; but he wished they had been reserved for the proper place; with regard to number likewise, it was out of place, as there was no reference to numbers in the motion of the gentleman from Vermont.

The second amendment of Mr. BRADLEY was then put and carried.

Mr. COCKE called for a consideration of the vote of the preceding day on the number in the 15th line, which he moved to strike out, in order to afford gentlemen the opportunity they seemed to wish for to discuss the number.

The motion was carried, and a blank left for the number.

Mr. COCKE.—Gentlemen had now full latitude for discussion, and he wished it would be settled so far as concerned the number, this day; he could not but express his sorrow, however, to hear gentlemen making such a stir about supposed dangers to the small States; this kind of clamor is worn

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thread-bare, and could not pass muster much longer; on all occasions we hear in one shape or another this opposition of States brought forward; lately it was the West was in danger; at other times the South is arrayed against the East; and now we are called upon to believe the large are going to swallow the small States; gentlemen must have a large swallow indeed who can take in these things. Another gentleman, from Connecticut, (Mr. HILLHOUSE,) presents us another horrid spectacle; he tells us that those States must be merged in blood, and truly the remedy by which all this bloodshed is to be prevented, he tells us, is the election of a Federal Vice President! He was not surprised at this kind of remedy being recommended, but he thought it little better than a quack medicine. He believed that if the remedy was accepted, the day would not be far distant when they would come forward with another, and tell us that a Federal President was necessary to our existence. He for one was not for taking the remedies of those who, when disorder prevailed, instead of curing them, created new ones. Gentlemen would not a few years ago listen to any advice or even complaints of a minority; they think now, as they said then, that there was no talents or virtue in the country but what they possess; and they now tell us that minorities should govern. While he stood in that House he would never submit to be governed by a minority, especially a minority which, when a part of the majority, declared the then minority deserved a dungeon. We shall not treat them in that way; they shall experience no persecution; we will even endeavor to make their situation comfortable for them; but they must not expect our aid to set aside majorities, or to depart from the principles of the Constitution.

Mr. HILLHOUSE.—If the gentleman alludes to me, he is mistaken.

Mr. COCKE.—No gentleman in this House can be a stranger to my meaning—he had proposed to insert the number five in the blank.

Mr. DAYTON seconded the motion, but not for the reasons offered by the gentleman from Tennessee.

Mr. COCKE.—As I cannot pocket that gentleman's superior reason, I must be content to make use of that plain reason God has given me. He had heard it said on that floor, that the object of our amendment was to prevent a Federal Vice President being elected. For his personal feeling on that subject he could account; he entered into no examination of other gentlemen's feelings, but for himself he would avow that he was actuated by a strenuous wish to prevent a Federal Vice President being elected to that Chair; he could not subdue his memory, and he would not wish to see any man chosen whose attachment to Republican Government he doubted; he was against the election of any man who differed from the majority; he was as adverse to persecution as any man; he could not persecute, but he would, while he had breath, guard against all men and all parties that countenance or practise persecution for opinion's sake. He would assert the right of the

majority, and entertained no sort of apprehensions from those spectres and hobgoblins, those denunciations of blood, and such declamations as were thrown out by some gentlemen, and which betrays the rancor which rankles in some gentlemen's breasts, who judge of others by themselves, and furnish the strongest argument against trusting to them. He disdained persecution, but he would guard against it. He would follow the letter and the spirit of the Constitution, which excluded the choice of minorities; which was advantageous to the minority, if it was not their own fault. We are called upon to make a choice or we are not. Will gentlemen tell us that we make a choice, if we admit what is contrary to our sentiments of right and wrong. What is the object of the amendment? To put it in the power of the people to choose those whom they think most entitled to confidence and respect. If we furnish an amendment which they do not approve they will send it back to us.

MR. TAYLOR.—This appears to be a subject of much importance, and the matter introduced into the debate had given it a more serious air than it at first assumed. To estimate a measure of a public kind we must look to the consequences which it is intended, or may incidentally produce. If the measure had the tendencies, or would produce such effects as some gentlemen surmise, it would be very serious indeed. But he would be bold to say that it was never contemplated to countenance or encourage a classification of States. No man he believed who advocated the amendment would submit to a classification of States any more than a classification of men, or the establishment of patrician and plebeian orders. Are gentlemen who hold forth these delusions conscious that the course they pursue is the only mode to excite that jealousy and distraction which they say they deprecate? Do gentlemen wish to excite an hostility of this kind, to inculcate the idea of discriminating the States into patrician and plebeian? Are they regardless of the consequences, or have they ever considered them?

How, he would ask, is this amendment to favor the large at the expense of the small States? Gentlemen have not shown. Have they considered that nothing is so fatal to freedom as the existence of orders and distinctions in society? Could the effect be less pernicious if you attempt with any effect to stir up rivalry of States? Are you prepared to estimate the consequences of violence and the conflict of weakness against strength? Can any gentleman reflect on it without horror? Is it to be presumed that if you set the furious passions in agitation, that the large States will sit patiently and bear unmerited reproach and outrage? Do you not perceive that these menaces and clamors proceed exclusively from those who affect so much concern for the small States? Are gentlemen aware of the responsibility which they attach to themselves—that of exciting resentment and animosity, and that kind of animosity which a weak man injured always feels towards the strong; for it is of no consequence whether the

weak man is deceived and insulted by the imposition put upon him, if he is really deceived into the pernicious belief?

He had persuaded himself a mode of argument so pernicious could not be employed on this occasion; he had expected that the question would be examined and decided upon its true grounds. But beside this we find an attempt to defeat the amendment by its form. Let us examine this amendment. By filling up the blank with five, you carry the election into the House of Representatives; and why do we wish to keep the election out of the House of Representatives? Because experience teaches us to avoid the danger of diets, which are always exposed to intrigue and corruption, as we avoid elections by mobs, from their liability to be misled by the sudden impulse of passion and violence. We wish to avoid both, because each by different paths leads to the same consequence. One or two elections by a diet would repay the small States—with what? with monarchy. Elections by diets always lead to monarchy. It is for this reason, then, that we wish to keep the elections where they should be, in the hands of the people, where, from very obvious cause, neither intrigue nor corruption can operate. It is by diets that Great Britain has been ruined in her prosperity and liberties. By placing the election in the House of Representatives, you expose the small States to the evils which Great Britain has suffered through her rotten boroughs. The small number of Representatives in the small States will expose them to the allurements against which humanity is not always fortified. The danger of temptation must be guarded against, else the minority may be through corruption made to govern. The small boroughs where there are few electors have given the rule over the majority in England for more than a century; corruption has been the Prime Minister, and the Parliament has been in fact the mere registers of the monarchical edicts.

But it will be asked, do we lessen the chance by lessening the number? Yes, sir; the greater the scope is which you give the House of Representatives, your chance is the greater for a number of candidates; if you fill the blank with twenty, you will have twenty; if with five, you will have five within the scope of that power; and the greater numbers the electors may have to nominate, the greater division of sentiment, and more numerous will be the inducements to corruption.

Limit the number to three and you reduce the danger, and by condensing public sentiment, you will then have the watchfulness of ambition on one side and of virtue on the other, directed without distraction to the limited number; he would, therefore, prefer three to five.

MR. DAYTON believed it would come to this, that when the question came to be discussed, and the rights of the small States maintained, the large States would threaten us with their power. The same threats had been heard in the old Congress, but they were laughed at, for the votes of the States were equal; they were heard in the convention, but they were spurned at, for the votes

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were equal there also; the large States must be cautious here, for in this body, too, the votes are equal. The gentleman had talked of a classification of States as a novelty, but he would ask if that gentleman pretended to be wiser than the Constitution? Look through that instrument from beginning to end, and you will not find an article which is not founded on the presumption of a clashing of interests. Was this fine process instituted for nothing? Was developing the election in particular circumstances in the House of Representatives intended for nothing? Was nothing meant by the provision of the Constitution, that no amendment should ever deprive the States of the equality of votes in this House? Yet, it was that jealous caution which foresaw the necessity of guarding against the encroachments of large States. The States, whatever was their relative magnitude, were equal under the old Confederation, and the small States gave up a part of their rights as a compromise for a better form of government and security; but they cautiously preserved their equal rights in the Senate and in the choice of a Chief Magistrate. The same voice that now addresses you made the solemn claim, and declared there was no safety in association unless the small States were protected here. The warning was taken, and you find in that part, as in all others, a classification governs every line of the Constitution.

Mr. JACKSON said, that though coming from a small State he had not been instructed, and was therefore at perfect liberty to act according to the best of his judgment; though his State was now, in regard to population, small, and though it were to remain so, he could have but one opinion on this subject. He saw abundance of reason for preferring three to five. The Constitution under the present form has directed the choice to be made from five. But the reason of this was consistent with the result to be produced; the Electors were to vote for two persons indiscriminately, but with the restriction of voting for one only belonging to the State where the vote was given. The voting for two would necessarily bring forward four candidates, and a fifth possibly, for we saw in the two elections before the last that there was one more than the four, though in each case the fifth had but one vote; he alluded to the vote for Mr. Jay. In the amendment proposed you are called upon to designate for each office, and there can be little apprehension of having more than two or three principal candidates; and for twenty years to come he had no apprehension of a greater number of candidates if this amendment prevails.

Now, supposing that, as on the first and second elections, there were to be five candidates, and that there should be a candidate with one vote like Mr. Jay, and that the number were five; that there was an equal number of votes for two candidates as at the last election, two others with inferior numbers, and the fifth only with one vote, the election would devolve upon the House of Representatives, and thus would have them place him, who had only one vote, on the same footing with him who had seventy-three.

Suppose the result to be the same as the last election, when the votes were, for Thomas Jefferson 73, Aaron Burr 73, John Adams 65, C. C. Pinckney 64, J. Jay 1; here the unequal numbers would be placed under the power of the House upon equal terms.

What would you do, sir, if there was not barely five who had not the highest numbers?—your difficulties would increase with your numbers. He had no apprehensions on the score of the present election; every member of that House must be satisfied that there can be no doubt of his being the man of the people above all competition; he believed, too, he was the man of the Legislature. All considerations as to the next election could have no influence here; we must look to the future, when we may not be so fortunate. He was sorry to hear gentlemen talk of separate interests; he knew of no separate interests, but felt himself bound to maintain the interests of the great whole. This, he thought, could not be done but by the choice from the number three. You had best avoid the danger which experience has shown you narrowly escaped. You must keep the election out of the House of Representatives, if you wish to keep the Government from civil war, from the danger of having a man not voted for by the people proposed to be placed over your head, as you are plainly told had been proposed. We are but the servants of the people, and it is our duty to study their wishes. Separate interests do not exist; and the agitation of such ideas should not be countenanced. It is all a cant, a mere factious pretence; he had never known any separate or hostile interests in this country but that of Whig and Tory; though he had heard much less said about these real enemies than the imaginary adverse interests so much talked of as the Eastern and Southern States; then the Eastern and the Western; then come the federalists and anti-federalists; subsequently, federalism and republicanism; and now, it is the large and small States. Presently, he should not be surprised to hear of the hostility of the rats and anti-rats: the danger from one is as real as from the other. He hoped to see all this delusion banished; he was well satisfied it would not make any impression on the people. By fixing on the number three, division and passion will be more effectually prevented, and intrigue will have less room for operation.

Mr. WRIGHT.—We need not be told in this House, that the Constitution was the result of a compromise, or that care was taken to guard the rights of each State; these things we must be very ignorant, indeed, not to know. But does it therefore follow that it is not susceptible of amendment or correction under experience? Does it follow, because, for mutual interest and security, this compromise was made, that we are precluded from effecting any greater good? No man would accuse him of a wish to see the interest of any State impaired. But we can preserve the spirit and intention of the Constitution in full vigor, without impairing any interests. And this is to be done, by the discriminating principle; it fulfills the intention, and it forebids the recurrence



of that danger from which you have once escaped. By this principle, each elector may name his man for each office, and this can be done whether the number be three or five. For the latter number he was disposed, because already adopted by the other House, and he did not wish to delay its progress. If we were to form a constitution, he would provide that there should be only two candidates presented to the House. But he did not rely on any number so much as on the discriminating principle.

MR. NICHOLAS.—Several gentlemen profess much reluctance to make any change in the Constitution; he would make no such profession; and though he should be as jealous of improper alterations, or the introduction of principles incompatible with Republican Government, he would not hesitate to make any alteration calculated to promote, or secure the public liberty upon a firmer basis; nay, if it could be made better he would expunge the whole book. Gentlemen who are for adhering so closely to the Constitution, appear not to consider that a choice of President from the number three, is more in the spirit of the Constitution than from five; and preserves the relation that the election of two persons, under the present form, holds to the number five. A reason equally forcible with him was, that, by taking the number three instead of five, you place the choice with more certainty in the people at large, and render the choice more consonant to their wishes. With him, also, it was a most powerful reason for preferring three, that it would render the Chief Magistrate dependent only on the people at large, and independent of any party or any State interest. The people hold the sovereign power, and it was intended by the Constitution that they should have the election of the Chief Magistrate. It was never contemplated as a case likely to occur, but in an extreme case, that the election should go to the House of Representatives. What, he asked, would have been the effect, had Mr. Jay been elected when he had only one vote? What, he would ask, would be the impression made upon our own people, and upon foreign nations, had Mr. Aaron Burr been chosen at the last election, when the universal sentiment was to place the present Chief Magistrate in that station? He did not mean anything disrespectful or invidious towards the Vice President, he barely stated the fact, so well known, and asked, what would be the effect? Where would be the bond of attachment to that Constitution which could admit of an investiture in a case so important, in known opposition to the wishes of the people? The effect would be fatal to the Constitution itself; it would weaken public attachment to it, and the affection, if alone for the small States, would not have been heard of in the deep murmur of discontent. Gentlemen, who pretended to feel, for he would not enter into their conceptions, if they had any real apprehensions on the subject of the danger of the smaller States, forget that this is not a project of the large States; they ought to have considered that it has originated with the small States; and that, in the House of Repre-

sentatives, two-thirds of the representation is that of the smaller States. Have gentlemen forgotten that the amendment has been twice recommended from South Carolina, afterwards by Vermont, then by New Hampshire, and finally by Tennessee? Are these large or small States? Away with such groundless pretences! The attempt to excite jealousy in the small States cannot succeed. The people know that it is calculated to prevent a crisis which was long apprehended, and which the experience of the last election proved to be well founded.

MR. MACLAY said, he believed that, as it concerned one more than another State, it was perfectly immaterial whether the number five or three were chosen. He conceived that it involved no question but what was common to all the States; and he wished this clannish spirit could be laid aside on occasions of this important nature; and that the general interest of the whole should be considered. In this point of view, the present amendment cannot affect the political rights of any State, for, being on a perfect equality, in the choice of one from three as well as one from five, no danger of rights can exist, though other dangers may be apprehended. If any rights can be at all affected, they must be civil rights. But here he found it difficult to convey, with the clearness he could wish, his ideas on the application of the amendment to civil rights; he would, therefore, endeavor to do that by comparison, which was not so easily explained by itself. He would compare the States of the Union, in their collective capacity, to individuals in society; wealth, in society, is power; and he who has wealth possesses a more extensive influence than he who is poor; in this respect, perhaps it may be said, they are not upon a perfect equality, because one man possesses an equal direct power with the poor man, and an overplus of indirect power, which the poor man does not possess. But the same men, in their civil capacity as citizens, are upon complete terms of equality, possessing equal rights and power, as in the right of suffrage, and in the sight of the law, they are equally *units* in the mass of society.

Extent of territory, occupied by a numerous population, is, in a State, what wealth is to the private individual. The State of small extent, or of comparatively small population, stands in the same relation to society as the poor man. Notwithstanding this disparity of political or physical power, the rich and the poor man, the large and the small State, are equally interested in supporting their actual or personal rights. But they may be considered as equally interested in supporting those personal rights which connect themselves with the security of their wealth, in which they have but unequal interest. The wealthy have, besides their civil rights, their property at stake, and may therefore be supposed more vigilant and watchful of innovations which might weaken or destroy that security by which they hold their rights and privileges. If this reasoning be correct, let us apply it to the case under consideration; why attempt to alarm and raise jealousies in the



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small States, when it is evident that the interest of the large States will be constant protection to the smaller States? The idea might be carried farther, and it might be shown that, if there is anything in this amendment that has any tendency to alter the relative power and influence of any States in the Union, the danger would be to every State, in proportion to its extent and population.

It was probable, that on this subject he entertained opinions different from gentlemen whose talents and information he highly respected; on such occasions he always offered his sentiments with diffidence, and he was willing to hear and be convinced if mistaken; but from every view he had taken of the amendment, it did not appear to him that it could alter the principle in the Constitution, nor change in any way the relative rights and situation of the States. In simple truth, it is only alteration in the detail of the elective process, calculated to assimilate the election of President and Vice President of the United States to the modes already in practice in the election of the Executive of several of the States. He could not see that it would be attended with any danger to any of the States; if there was danger, the danger would be greater to the larger States, as their interest is the greatest. But danger of this kind cannot and does not exist; for it cannot be shown that this amendment has or can produce any effect on the law-making power in this country, and it is in this power that we are to seek for the nature and the protection of all our rights, civil and political; and, with this impression, he would vote for the amendment with the number three.

An adjournment was now called for and carried.

FRIDAY, November 25.

The Senate took into consideration the amendments reported by the committee on the 23d instant to the bill, entitled "An act for the further protection of the seamen and commerce of the United States;" and having amended the report, it was adopted: and the bill passed to a third reading as amended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

The treaty with the Kaskaskia Indians being ratified with the advice and consent of the Senate, it is now laid before both Houses in their Legislative capacity. It will inform them of the obligations which the United States thereby contract, and particularly that of taking the tribe under their future protection; and that the ceded country is submitted to their immediate possession and disposal.

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TH. JEFFERSON.

The Message was read, and ordered to lie for consideration.

On motion, by Mr. ADAMS, that it be

*Resolved*, That a committee of — members be appointed to inquire whether any, and, if any, what further measures may be necessary for carrying into effect the treaty between the United States and the French

Republic, concluded at Paris on the 30th April, 1803, whereby Louisiana was ceded to the United States; which committee may report by bill or otherwise.

*Ordered*, That this motion lie for consideration.

Agreeably to notice given yesterday, Mr. COCKE had leave to bring in a bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky.

AMENDMENT TO THE CONSTITUTION.

The Senate resumed the consideration of the report of the committee appointed to consider the amendment proposed to the Constitution, in the mode of electing the President and Vice President.

On motion, it was agreed to amend the amendment, adopted yesterday, and strike out the words "in the manner directed by the Constitution," and insert:

"But in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice."

On motion, it was agreed to amend the amendment adopted yesterday, and to strike out the words, "and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution," and insert:

"If such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President. A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice."

On motion, by one of the majority, it was agreed to consider the vote of yesterday for inserting the word "three" in line tenth of the amendment agreed to, so that it stand blank; and, after debate, the Senate adjourned.

MONDAY, November 28.

The PRESIDENT laid before the Senate a letter from the Postmaster General, with his annual report, made conformably to law; and they were read, and ordered to lie for consideration.

The bill, entitled "An act for the further protection of the seamen and commerce of the United States," was read the third time.

*Resolved*, That this bill pass with amendments.

On motion,

"That a committee of — members be appointed to prepare a form or forms of government for the Territory of Louisiana."

*Ordered*, That this motion lie for consideration.

On motion,

"That a committee be appointed to inquire whether any, and what, addition may be necessary to the Naval Armament of the United States, and whether it would

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be proper to authorize the President to dispose of any of the public ships of war now in the service of the United States, and to report by bill or otherwise."

*Ordered*, That this motion lie for consideration.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act to repeal an act, entitled 'An act to establish an uniform system of bankruptcy throughout the United States,' in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

Mr. BRADLEY, from the committee to whom was referred, on the 23d instant, the bill, entitled "An act fixing the salaries of certain officers therein mentioned," reported the bill with amendments.

*Ordered* That they lie for consideration.

## AMENDMENT TO THE CONSTITUTION.

The Senate resumed the consideration of the report of the committee appointed to consider the amendment proposed to the Constitution, in the mode of electing the President and Vice President of the United States.

Mr. ADAMS suggested the propriety of postponing the question this day, as a member was absent indisposed, (Mr. ANDERSON,) who was the representative of a small State. He was ready on Saturday to give his vote on the main question and on the incidental question; but as he understood the number three to be a *sine qua non* with the gentleman from Virginia, he thought it better the subject should be postponed until the House should be full.

Mr. COCKE said, that number was not with him a *sine qua non*; he would vote for the amendment with either number; though, from a more deliberate consideration of the arguments he had heard, he was disposed to think *three* the best number, as it promised to bring the election closer to the people. He was not apprized how his colleague meant to vote.

Mr. FRANKLIN was against a postponement. His mind was perfectly made up on the subject, and it was time the Senate should come to a decision. The Legislature of his State was in session; their sentiments were decidedly in favor of the amendment, and he wished it to reach them before Christmas, as they would most likely rise about that time.

Mr. WHITE said that he, as well as other gentlemen, was ready to vote on the main and incidental questions, and was fully aware of the importance of an early decision. His mind was made up, as a member from a small State, for the number five, and he understood that the member absent was in favor of the same number. He wished, on his account, therefore, to postpone, though ready himself. The gentleman might be able to attend to-morrow.

Mr. NICHOLAS thought there was no necessity whatever to delay a decision. If the indisposition of a member was a good reason for delay, business might be postponed forever; but even if the gentleman absent was solicitous to deliver his

sentiments, the filling up the blank with any number need not prevent it, as the number might be withdrawn to afford him that opportunity, and the discussion of the main question might still proceed.

Mr. DAYTON was opposed to that mode of proceeding. Upon the issue of the number *five* or *three*, it was probable that the whole question would depend.

Mr. TRACY was for a postponement. He felt himself unwell.

Mr. COCKE was indifferent; whether decided now or to-morrow, it would be the same. Postponed.

TUESDAY, November 29.

Mr. BRADLEY presented the petition of Elijah Brainard, stating that he had received a wound in the service of the United States during the late Revolutionary war, and that he is thereby reduced to great distress, and wholly incapacitated for bodily labor, and praying admission on the pension list, although his claim may be barred by the statute of limitations; and the petition was read, and ordered to lie on the table.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I now communicate an appendix to the information heretofore given on the subject of Louisiana. You will be sensible, from the face of these papers, as well as of those to which they are a sequel, that they are not, and could not, be official, but are furnished by different individuals, as the result of the best inquiries they had been able to make, and now given as received from them, only digested under heads to prevent repetitions.

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The Message and papers therein referred to were read, and ordered to lie for consideration.

The bill entitled "An act to repeal an act, entitled 'An act to establish an uniform system of bankruptcy throughout the United States,'" was read the second time.

*Ordered*, That the further consideration thereof be the order of the day for to-morrow.

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The order of the day being called up on the amendments to the Constitution—a considerable time elapsed, when

Mr. DAYTON rose and said, that since no other gentleman thought proper to address the Chair, although laboring himself under a very severe cold, which rendered speaking painful, he could not suffer the question to pass without an effort to arrest it in its progress; and should consider his last breath well expended in endeavoring to prevent the degradation which the State he represented would suffer if the amendment were to prevail.

As to the question immediately before the Senate for filling the blank with five, he felt himself indebted to the member from Tennessee for renewing the subject. He was grateful, also, to

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the member from Maryland (Mr. WRIGHT) for declaring he would support it, as well as for giving the assurance that he was disposed to consider and spare the interests of the small States as far as possible, consistently with the great object of discrimination.

Every member who had spoken on this subject seemed to have admitted, by the very course and pointing of their arguments, even though they may have denied it in words, that this was really a question between great and small States, and disguise it as they would the question would be so considered out of doors. The privilege given by the Constitution extended to five, out of which the choice of President should be made; and why should the smaller, for whose benefit and security that number was given, now wantonly throw it away without an equivalent? As to the Vice President, his election had no influence upon the number, because the choice of President in the House of Representatives was as free and unqualified as if that subordinate office did not exist. Nay, he said, he would venture to assert that, even if the number five were continued, and the Vice Presidency entirely abolished, there would not be as great a latitude of choice as under the present mode, because those five out of whom the choice must eventually be made, were much more likely hereafter to be nominated by the great States, inasmuch as their electors would no longer be compelled to vote for a man of a different State. The honorable gentleman from Maryland (Mr. SMITH) has said, he was not surprised that those who had seats in the old Congress, should perplex themselves with the distinctions; but he could tell that gentleman, that it was not in the old Congress he had learnt them, for there he had seen all the votes of the States equal, and had known the comparatively little State of Maryland controlling the will of the *Ancient Dominion*. It was in the Federal Convention that distinction was made and acknowledged; and he defied that member to do, what had been before requested of the honorable gentleman from Virginia, viz: to open the Constitution, and point out a single article, if he could, that had not evidently been framed upon a presumption of diversity (he had almost said, adversity) of interest between the great and small States.

The gentleman from Georgia, too, (Mr. JACKSON,) is very much afflicted that the State distinctions had been introduced on the occasion, and admonished the Senate to put away all local considerations. That gentleman may now be prepared to do so, since he has obtained all his heart could wish for his immediate constituents; but if there was a single member who had more ably, more perseveringly, and more successfully and warmly contended for the rights and interests of his particular State, than any or all the other members on that floor, he was that member. The gentleman had not only been quickly, but tremblingly alive to every measure that could in the most distant degree affect the interests of his State. It would be remembered that in the session before last, when a bill came up from the

other House for allowing the privilege of franking a few letters to a gentleman who sat there as delegate, and had travelled about thirteen hundred miles from the banks of the Mississippi to inform us that it was inhabited by other creatures than alligators, the bill was opposed by that very gentleman, upon the ground that the dignity of Georgia would be wounded, and her rights injured by the passage of that bill. It was afterwards committed and recommitted, whilst the unhappy delegate (since put in his grave, poor man! no doubt of a broken heart) was compelled to wait several weeks without writing under privilege and without drawing a shilling of money, until the gentleman from Georgia could find leisure to secure the rights and dignity of his State from being injured by allowing the delegate to frank his billets.

In a more recent and far more important transaction, it might be recollected also, how dexterously, how zealously, and how very successfully he advocated the interests of a little corner of the Union known by the name of Georgia. On the list of expenditures there would hereafter be seen between one and two millions accounted for by being paid over to the treasury of the State he represents, as the fair fruits of his zeal and address. He may now be ready, since he has obtained thus the extent of his wishes, to banish all local attachments pending this question. He would give him credit for his assertion, and for two reasons: first, because the gentleman himself had said so; and next, because he should, on any other principle, be at a loss to account for the vote he was about to give.

Since these instances of State attachment, and of the good fruits of it, were so fresh in the recollection of the Senate, it was to be hoped the gentleman from Georgia would allow members from other States, sometimes, to imitate his commendable example, by taking a little care of the interests of their constituents—not in the more trivial question of franking letters or of a few dirty acres, but in a question so very serious in its nature as to strike at their sovereignty itself.

Some attention was due to the remarks of the gentleman from Pennsylvania, (Mr. MACLAY,) who went into an ingenious but subtle distinction between civil and political rights, artfully calculated to divert the attention of the Senate from the true distinction upon which this motion and the main question turned, by amusing them with an ingenious disquisition on the rights of men in society, distinguishing them under the heads of political and civil. But without following him through his regular chain of reasoning, he would make shorter work, and reduce all that gentlemen had said to the test of analysis. To those Representatives of small States who should vote with him, his disquisition was intended doubtless as a sort of justification; and to those of them who, although voting against him, must be compelled to submit, it was kindly meant as a consolation under the new dispensation of State influence. They were told that their rights were of two kinds, viz: political, in relation to their standing

as members of a State, and civil in reference to their rights as mere individuals; that their political rights might be abolished or abridged, or their State sovereignties invaded and prostrated, but their civil rights might remain unimpaired; that they might, to be sure, be less respected as Jerseymen, Rhode Islanders, or Georgians, but they would not therefore be less respected and regarded as members of the Union, or Americans. Mr. D. said he liked the gentleman's illustration of his argument much better than the argument itself; and he approved the machinery he had employed much more than the use he had made of it. With his leave, therefore, he would take the materials he had furnished for the occasion, and put them into plain and simple allegory.

The gentleman from Pennsylvania had compared the great and small States confederated, to rich and poor men associated in one community. Let the comparison for argument's sake, be admitted to be just, and let the analogy be pursued. Suppose these rich men, four in number, and the poor men thirteen, had entered into a compact which required that a chief should be chosen from among them once in four years, and that, as their votes would be in proportion to their wealth, the four men would have a preponderance over the other thirteen. Suppose them allowed to vote for themselves exclusively, but with this stipulation, that if, on the first ballot, a majority should be found for one, it should devolve upon the whole seventeen to decide upon a chief, with equal voices; would it not in this case be the interest of these four to limit the choice to the three highest on the list, and of the thirteen to extend it to five? In the first case of three, they would be compelled to elect one of the three rich, however unworthy; and in the other case, they would be at liberty to choose one of their own number, if they thought him better qualified than any of the other four. They might, it was true, risk the displeasure of the four rich men, but why debar themselves from doing it, if the case should justify their running the risk? This could with propriety be said to be such a case, or, to drop all figure, a question between the great and small States. The Constitution allowed a choice from the five highest on the list, and why should we debar ourselves of the right of such a choice? It was a privilege which ought to be persisted in, even though the resentment of the great States might be aroused. As expressed in the animated language of the honorable gentleman from Virginia, "their power was great, and he could hear the menace of a former day reverberating through the Senate Chamber;" its effects would perhaps be best ascertained by the vote which was to follow.

Mr. WRIGHT rose only to correct an error into which the gentleman from New Jersey had fallen, concerning the number five, which he had spoken in favor of on a former day; he had never admitted nor argued that the number five or three would affect the Constitution or the small States; he had, on the contrary, declared that all he wanted was the discriminating principle; and so that was effected, he cared not whether the choice was

to be made from five or from twenty. As he had not used such arguments, he supposed he must have been imposed upon, by the misrepresentation of his sentiments in an infamous paper, called the *Washington Federalist*, in which nothing said on his side of the House was reported truly; that paper had falsified his speech, and he took that opportunity to state that, whosoever was the reporter of his speech in that paper, was guilty of a lie.

Mr. DAYTON observed that the allusion he had made was to the support which the gentleman certainly gave to the number five; as to what the paper alluded to might say, he had nothing to answer.

Mr. WRIGHT had repeatedly advocated the discriminating principle, and he had been represented as holding opinions which he did not hold, that the amendment was an attack on the small States; now, as he had never entertained that opinion, and as that infamous paper had so misrepresented him, he must repeat, that whoever wrote that charge in that paper, wrote a lie.

Mr. DAYTON hoped the gentleman did not mean to connect him in his observations; he could not certainly suspect him as the author of any piece in that paper.

Mr. COCKE had also come in for a share of the gentleman's thanks, but there were none due, as he had acted as one of the majority, and was willing by giving them an opportunity to say all they had to say in favor of the number five. With him, at first, it was a matter of indifference, so he obtained the discriminating principle. His constituents were unanimous in favor of this principle, and he had their instructions to that effect. He preferred the number three for the reasons he had already given; it brought the election closer to the people; five would give a greater latitude, and subject it to the Legislature, which he did not wish to see take place. As to those dreadful consequences, and all this depredation of States, he could not see how those things could happen. What if the larger States were foolish enough to attempt the enslavement of the smaller States, were the small States so feeble and so few as not to be able to prevent them? As to this degradation of small States, he could recollect the time when it was said that if Pennsylvania would give an unanimous vote, New Jersey would give a vote to counteract it. He knew nothing that would degrade a State so much as intrigues of such a nature; and, it was to avoid that degradation, he wished for the amendment. He wished the President not to be an intriguer; he wished to have him what he now is, the man of the people; and, for that purpose, he would vote for three.

Mr. JACKSON had intended to have given only a naked vote on this question, but the profusion of compliments heaped upon him for merely discharging his duty, demanded some return; he had been sent to that body to watch the interests of his State, and to do, to the best of his judgment, justice between it and the United States. He had conceived the rights of Georgia invaded, and he felt it to be his duty to seek justice according to

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the Constitution. Whatever gentlemen may insinuate about dirty acres, no! State of the Union was so much oppressed as Georgia had been; not by the large States, from which the gentleman apprehends so much, but by the small. Let any gentleman consult the Convention at New York, and they will find that not a single small State came forward to support her protest against a great wrong when a treaty was sanctioned that violated her rights and parcelled out her territory. As well might the Union pretend to give up Philadelphia to Great Britain, as the county of Talassee to a parcel of tomahawking Indians. Had that gentleman been a Representative no doubt he would have come down upon them in thunder, he would have with a loud voice rent the Hall of Congress with the wrongs of the State, and the ravage and carnage to which it was exposed; he would have described the children torn from their mothers' arms by the unfeeling savage, and dashed to pieces; the matron abused and murdered; and deplored that, to the authors of such cruelties, the territory had been consigned.

Gentlemen either knew not or cared not for these wrongs; and, after several years supplication, it was only two years ago that half justice was done; for half what was taken away by usurpation, has not been restored by justice. We had paid other States for defending the Union, but Georgia had not yet been paid, and it remains yet to be known, whether the widow, bereaved of her husband in battle, or murdered by treachery, while defending his country, or the orphan who survived her murdered parents, are to be remunerated even for their country and equitable demands. Government by a law seized upon this territory and legislated for it. It was for that territory a Delegate was sent, to whom the gentleman advertised. He opposed the extension of the privilege of franking to any Delegate, because agreeing to it would be to acknowledge the title of injustice.

No State had ever been oppressed by Georgia; year after year they had sent petitions demanding payment for the service of the militia which had protected the frontiers, but they had not been paid to this hour.

Upon the merits of the question of numbers, he had wished to remain silent, but, as he was up, he would intrude upon the House a few observations. He preferred the number three, for several serious reasons; he wished to prevent the choice from devolving upon the House of Representatives; he wished it to be out of their power, if it should devolve upon them, to elect any man not evidently intended by the people; the smaller number would render this more certain; he did not consider it a matter of any consequence from what State a President was chosen; he believed the small States had never offered a candidate; the period was too short, since the existence of the Government to admit of many States having an opportunity to bring forward a candidate; and various good causes had contributed to make the selections that had been from large States. While parties existed there would be a champion chosen by each; if New Jersey has not brought forward

one, it cannot be for want of inclination; and where Princeton College exists it would be ungracious to suppose that the requisite talents could not be found there. Georgia had never wished to bring forward a candidate, neither had Tennessee, nor several other States. He believed that wherever a man should be found in the Union distinguished by his virtues, his genius, and his devotion to republican principles, that he would be taken up, without concern for the State in which he has his residence.

This league of the large States, so much harped upon, he could not comprehend; where was it to be formed, and how? Are we certain that Massachusetts and Virginia, Pennsylvania and New York, will, notwithstanding their distance, several interests, and views, combine to tie the small States, hands and feet? No, sir, we find the large States disagreeing and as jealous of each other as the small; and with more reason, if the argument has any weight at all.

He preferred the number three in the amendment, as it brought the election two degrees nearer to the people; because a Constitution was not intended for the convenience of the servants, but for the use of the Sovereign—the people. Out of five persons the provision for a choice was before directed to be made; the Constitution as now proposed to be altered would approach to the principle and number of five in a safer and more certain way, for the President would be chosen out of the three highest, and the Vice President out of two others. It was not proper that any man should have a chance of being placed in a situation of so much consequence, contrary to the intention of the people. It is, therefore, our duty to prevent such an occurrence; and we ought to send our amendment to the people as free from defects as possible, because their rights are involved therein; neglect their rights, and they will form a Constitution for themselves; or, in seeking to reform it, they will incur the dangers, either of a sanguinary revolution, or of the establishment of a Government like that of Great Britain, sustained by corruption and wretchedness of the people.

Mr. TAYLOR would trespass on the House with a few observations. With other gentlemen, he was not so much disposed to dispute about the number five or three, as strenuous to obtain the principle of designation. The argument of those who opposed the amendment, he perceived, had been all along founded on extreme cases, which, even if they were to happen, would not produce the affirmed effects on the small States. The number three he certainly preferred, because it gave a greater certainty to popular choice; the extreme case of this would be an election by the House of Representatives; if the number were three, how would this operate in the House? Would not the small States have a greater share of influence than the large States, in the proportion of thirteen to four? Another case is, that election should remain in the divisible electoral bodies, as heretofore, or, in the extreme, be elected by an accumulated body in the House of Representatives.

Would this latter be in favor of the small States? Would the election by a Diet be preferable or safer than the choice by Electors in various places so remote as to be out of the scope of each other's influence, and so numerous as not to be accessible by corruption? It is true, that the number three has a greater tendency to give the choice to the people; it cannot be true that the small States would wish to place it in the House of Representatives, because three would give the people the choice; and, even if they did wish to take the choice out of the hands of the people, it ought to be opposed, because it is contrary to the spirit and intent of the Constitution.

The division of election is one of the soundest principles of the Constitution; elections are more free and less liable to passion and corruption in the state of division; for experience has shown that elections, any more than Executive powers, cannot be so well effected by accumulative bodies. Your Constitution directs elections in States, not assembled in one place. And why? To prevent the evils to which Diets or Legislative bodies are exposed. Does not three, then, adhere infinitely more to the leading principle of your Constitution, by placing it in the power of the numerous election districts, and keeping out of the reach of the numerous or accumulated body the choice? Is it not necessary to guard, by every means, against what has proved fatal to so many Republics?

Let the extreme cases, on the other hand, be taken. The number five is adopted. For what end? To carry the election to the House of Representatives; will the small States be benefited by five more than three? Will they not, from the number, be more likely to be divided; and would not a number of the large States then possess all the advantages of number and union? For the gentlemen consider this union of the large States as certain, and they cannot refuse their own arguments, or the consequences of them.

Suppose the elective power of the people annihilated, and transferred solely to the Legislature? Would the small States consent to this? Would they be so blind? Yet, by adopting five, you promote this evil; by three you prevent it. And yet gentlemen say they look upon this as only a contest of small and large States.

The gentleman from New Jersey had talked something of a threat, alleged to have been thrown out in that House, by him in a former day's debate. He would beg leave to say, that the gentleman had most egregiously misrepresented or misconstrued him. But he could see in it a very shallow stratagem; he thought the gentleman possessed more skill; had his generalship been as great as his reputation he would not have planted his ambuscade where the enemy must see him from all sides, and expose all his force by this state of his advance party. When he heard this clamor about the danger of small States, he was led to ask, what was their number? And, looking round that House, he found that there were thirteen represented, and only four large States! Are the Representatives of the small States in this Senate, then, so blind to their danger, that, possessed of a

full majority of nine States, they will deny themselves the power of self-government? It is a principle of heroism, or something else, which enables minorities to govern; but it is a principle of reason and virtue, which gives the Government to majorities in a free Government. Are we, then, in making the designating principle, to adhere to the form and desert the substance? How does the Constitution now stand? We choose from five the President and Vice President. How, if we adopt three? Then the President would be chosen from three, and the Vice President from two—making five. Here preserving the substance, and indirectly the form. How, if we adopt the designating principle, and leave the number five? Then, we would choose the President from the five, and the Vice President from two other—making seven! The more the subject is examined the more we must be convinced that three should have the preference.

Before he sat down he would say a word more on the subject of the threat alleged to have come from the Ancient Dominion. If he mistook not there were intimations held out in the course of the debate, that bloodshed would be the result of the amendment of the Constitution; and many other expressions of that nature had been employed, which by no means argued decorum, and could not serve as argument with any member of that House. The malignant passion of jealousy was conjured up, to be the herald of this civil discord, and the most disastrous afflictions were predicted as the consequence. In glancing at these unwarranted and unwarrantable sentiments, he had assumed it as a principle not to be overthrown, that free governments must exist upon moral rectitude, or perish; and that if the United States were capable of being actuated to rage by their pernicious and destructive passions, rectitude and morality would no longer exist among them, and they must be destroyed by each other. What, sir, because there are strong and powerful States, must the weak be tolerated to menace them with injury and bloodshed, without the liberty of warring against the fatal consequences? Are strong men bound to bear the wrongs done them by the weak? Are the rich to fold their arms and bear to be robbed by the poor with silence, and without remonstrance? Yet such is the inference that must be made from what the gentleman has undertaken to call a threat. Wherefore threaten with good? Can evil be the result of good, or good of evil? Natural and moral consequences flow from moral actions; and when there are any who undertake to do evil, it is but strict justice he should suffer. He found some difficulty in bringing himself to notice this charge of a threat, because he had perceived, particularly in the paper published in this city, a common practice of misrepresentation. In a former day's debate he had alluded to the fatal effects which the British Government had produced on the liberty and prosperity of that country, by the means of the rotten boroughs; and he had been misrepresented as depreciating the small States and describing them as the rotten boroughs of America. It must be obvious that a

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purposed intention to misrepresent could alone have given sentiments of the kind as uttered by him. He had not alluded to the States in their capacity as States; he had objected to elections by diets, and the small States having but few representatives, he stated as more exposed to corrupt attempts upon them, than States where the number was larger. In an election by the House of Representatives this would be the case: some States have but one, others two representatives, attempts would be made upon them, and though we have had virtue enough to resist temptation, our country must be like all others subject to the casual decay of virtue, and at a future day the representatives of small States may become as venal as those of the rotten boroughs of England; and no longer represent the feelings, the interests, or the freedom of their country.

Mr. ADAMS in a former debate had stated that he had not a wish to avoid or seek for the yeas and nays on any question; on the present occasion, however, he would, when the question was taken, call for the yeas and nays. But his own vote on the final question would be governed by the decision of the number five, and he wished to have some record of his vote, that he might be hereafter able to defend himself against any charge of inconsistency. On the principle of the amendment he had formed his opinion, and he was free to confess, that notwithstanding the many able productions which he had seen against it, he thought it calculated to produce more good than evil. He was not however influenced in this opinion by the instructions which had been read in a preceding debate from a former Legislature of Massachusetts to their Senators; he presumed these were not read by way of intimidation. To the instructions of those to whom he owed his seat in that House he would pay every respect that was due, but he did not think that the resolutions of a Legislature passed in March 1799 or 1800 ought to have the same weight. Since that time four total and complete changes had taken place, and probably not one third of those who gave those instructions now remained. He held a seat in the Legislature himself three years since, but did not perceive any particular anxiety on the subject, and he did not think that the present Legislature would be extremely offended if he were to give a direct vote against what was recommended four years ago. But as it seemed to be read to influence him he would state his reasons for his vote.

Upon the alteration of the number from that agreed upon by the House of Representatives several arguments had been offered; they were of three descriptions.

1. That no alteration of the Constitution ought to take place unless it should be indispensably necessary, and that in altering the Constitution no departure should be made from its spirit.

2. That it ought not to be carried in the House of Representatives.

3. That the alteration proposed would affect the small States.

To the first he would say that although the

amendment might be useful, yet it was not necessary.

The gentleman from South Carolina (Mr. BUTLER) had argued on the necessity of adhering to the principles of the Constitution on a former day with great force; and though his arguments were used upon an amendment of another kind proposed by himself they applied in this case as closely as possible; the same arguments had been used by other gentlemen, on a suggestion of the gentleman from New Jersey (Mr. DAYTON) concerning the abolition of the office of Vice President. It is true that some gentlemen declared that they had no objection to the abolition, but disapproved of the time it was brought forward; he agreed and voted with the gentleman on that occasion.

But the ground is now changed and we are told that the principle of designation is not so much the choice as to keep the election out of the House of Representatives, and in a variety of ingenious arguments we are referred back to antiquity to justify the injurious effect resulting from elections by diets. As a speculation upon the principles of government he admired the gentleman's information and eloquence, but he was not prepared to act upon the principle. We had been shown the great inconveniences of carrying the elections into the House of Representatives; make it a separate question, and let it be fairly and fully discussed and he would then prepare his mind to vote. But before he could act on it now, he would just observe, that if you do not pursue that course you pursue some other, and it would be necessary to provide a substitute before we abandon that we possess. This consideration he therefore thought had no concern with the subject before us.

On the third point, that it would essentially affect the rights of the small States, he thought it the true object of discussion; and he saw it wholly as a federative question, and rejected all arguments of the popular kind. From the mode in which it had been argued the question would seem to be a dispute between sixteen small, and one large State. The Constitution however was a combination of federative and popular principles. When you argue upon, or wish to change any of its federative principles, you must use analogies as arguments; popular arguments will not apply to federative principles. The House of Representatives was founded on popular principles; in this House the representation is federative, and not popular, it is in its nature aristocratic. The foundation of all popular representation is equality of votes; but even the ratio of representation is different in different States; the numbers in Massachusetts and Virginia, in Vermont and Delaware, are different in their proportions; but still an equality of representation is preserved, and the only difference is in the details. But if you argue upon the principles of the Senate, this equality of popular representation, or by an equal or relatively equal number, will not apply; you must discuss it upon another species of equality, of sovereignties, and the independence of several States federatively connected. Applying principles then to the elec-



tion of President, if you reduce the number from which the House of Representatives is authorized to choose, do you not attack the principles of the federal compact, rather than the rights of the small States? The Executive, it had been said, is the man of the people; true, and he is also, as was said, though upon different grounds, the man of the Legislature—it was here a combined principle, federative and popular. Virginia had in that House twenty-two popular representatives, in this she has two federative; Delaware has one popular and two federative representatives. And even in the operation of election in the popular branch of Congress, the federative principle is pursued, and the State which has only one popular representative has an equal voice in that instance with the State that has twenty-two popular representatives. It was therefore evident that the attempt to alter the number from five to three, is an attack upon the federative principle, and not upon the small States.

In answer to the gentleman from New Jersey, (Mr. DAYTON,) the gentleman from Maryland (Mr. SMITH) had said he was not surprised to hear him who was a member of the old Confederation talk of the jealousy of States, and expressed much exultation that those State jealousies had been long laid asleep; that he had been ten years in the Government and had heard nothing of them; hoped never to hear of them again. He was equally happy that they had been so long laid asleep; but why was it that they had not complained? For very different reasons from those which had been inferred. It was because the excellent provisions of the Constitution had guarded against all cause of complaint. The States had no reason to murmur, and they had not been stirred up; but is it to be therefore inferred that if you now give them cause, that they will be equally silent, and that it may not tend to civil discord? He knew of nothing more likely to stir them up than an attempt to reform your federative institutions upon popular principles.

The gentleman from Virginia, as he understood him the other day, had intimated that the smaller States ought to be cautious how they excited the indignation of the large States; on this account he had complained that the gentleman from New Jersey had misrepresented him. From the illustration of his statements now given he was persuaded that no threat was intended on that occasion; but as that impression was made, it surely was incumbent on those who felt it to notice it. Was it unnatural for a gentleman coming from a comparatively small State to feel indignant under such a circumstance? The gentleman from Virginia (Mr. TAYLOR) is so ingenious, that, like all ingenious men, his sentiments are not at once accessible to plain minds, and to this cause misapprehension ought to be attributed.

Another gentleman from Virginia (Mr. NICHOLAS) had said that the amendment had originated with the small States; that the small States having a majority in this House and a majority of the Legislatures, may defeat it if they choose; and these are with him decisive as to safety. But

the gentleman has not taken into view that this question of number has never been before the States, and that having had no opportunity to examine it, the arguments do not apply. It is by this principle his own vote should be regulated; if three were adopted, he should vote against the amendment.

But the gentleman (Mr. TAYLOR) had taken another novel ground—that the smaller number was the most favorable to the small States. This, however, he supported by a mode of argument to which he had himself objected. He had argued that if it was proposed to vest the election of President in the House of Representatives exclusively, it would not be agreed to by the small States, because it was contrary to their interests. But this was an extreme case, and the gentleman well knew that, so far from its being consistent with sound logic, to argue from extreme cases, they are not admitted into argument at all.

Mr. S. SMITH, when he made the motion for filling up the blank with three, did it after the most deliberate consideration of the theory and the principles of the Constitution; which, if he understood it right, intended that the election of the Executive should be in the people, or as nearly as was possible, consistent with public order and security to the right of suffrage. The provision admitting the choice by the House of Representatives, was itself intended only for an extreme case, where great inconvenience might result from sending a defective election back to the people, as is customary in Massachusetts, where, if the majority is deficient, a new election is required. Our object in the amendment is or should be to make the election more certain by the people. This was to be done most effectually by leaving it to them to designate the persons whom they preferred for each office. As under the present form there was an extreme case, so there might be when the change of number should take place; for, although even with the number three, there was a possibility of the choice devolving on the House of Representatives, yet the adoption of the designating principle and the number three, would render the case less probable. It never was the intention of the framers of the Constitution that the election should go to the House of Representatives but in the extreme case; nor was it ever contemplated that about one-fifth of the people should choose a President for the rest, which certainly would be the case if what some gentlemen contended for were to take place. When gentlemen contend for such a power as would transfer the choice from the people, and place it in the hands of a minority so small, how happens it that gentlemen will not bear to hear of the efforts which such arguments or such measures would produce on the large States? It was not the interest of the small States to combine against the large. Suppose it were possible that the four large States should combine—and a combination of the small States alone could produce such an effect—nine States in the Union have but thirty-two votes out of one hundred and forty-two, yet nine States, with one vote each, make a majority



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of seventeen, though in relation to population they contain only about one-fifth of the whole; and by such a proceeding the one-fifth might choose a President and Vice President in defiance of the other four-fifths. What would be the consequence of such an election? At a subsequent election the large States would combine, and by the use of their votes they would frustrate every object which the small States might use their efforts to accomplish.

Notwithstanding what had been said concerning the jealousy of States, he could see nothing in it but the leaven of the old Congress, thrown in to work up feelings that had been long still. It was the forlorn hope, the last stratagem of party; and he was the more disposed to think so, when he saw gentlemen from the large States coming forward as the champions of the small—this might be sure, be magnanimity; but if his discernment did not deceive him, it was a stratagem to divide the friends of the amendment. Why was not the same jealousy entertained of the power of thirteen out of seventeen combining and giving absolute law to the other four? Why have gentlemen paid no regard to the experience which they have had from the last election, when less than one third of the members harassed the public mind, kept the Union in agitation, and Congress engrossed to the exclusion of nearly all other business for two weeks? Suppose that the House had been as accessible to corruption as the diets of other nations have been, and that three men, having in their power the votes of three States, had been seized upon, and the election made contrary to the wishes of the people. What would be the effect—on the minds of the people—on the administration of the Government—and on the attachment which the people feel for the Constitution itself? He need not attempt to describe the effects. But it is our duty to prevent the return of such dangers, by keeping the election out of that House. And the most effectual mode is to fix the selection from the number three.

The gentleman from New Jersey had affected to consider a comparison of the effects of combinations of States, as a threat against the small States. He had listened as he always did to the ingenious arguments of the gentleman from Virginia (Mr. TAYLOR;) he thought he had attended to his arguments with particular attention on that occasion, because they carried to his mind that conviction which truth always carries couched in the language of sincerity. To him, the gentleman's observations on that day conveyed the same ideas and convictions which his explanations conveyed this day in a more copious way, but to him it appeared impossible; and if he had not heard the gentleman from New Jersey, (he confessed with astonishment,) he could not have believed it practicable to give any coloring of menace to his arguments. The gentleman from New Jersey had censured the gentleman from Georgia for his attention to the State which he represented; but what bearing had the gentleman's discharge of his duty to his State on the present question? The gentleman from Georgia had not taken up

the present question on the narrow ground of a selfish, jealous, and illiberal policy, but upon great national principles. It was the practice of that gentleman to act; it was his practice to discharge his duty with fidelity to his State and to his country at large, and such conduct reflected honor on him.

The gentleman from Massachusetts (Mr. ADAMS) says we had forgot the main object; that we changed our ground; and that having first claimed the designating principle, we abandoned it in order to keep the election of President out of the House of Representatives. The gentleman had misconceived the subject entirely; if he would only consider the subject again, he would find that nothing had been abandoned, nor anything new assumed; he would find that the principles correspond so exactly as to support and enforce each other. It is to place the election in the hands of the people we wish to designate; it is for the same purpose we wish to keep the election out of the House of Representatives; it is to prevent intrigues we wish to designate; it is to prevent intrigues we wish to keep the choice out of the House of Representatives; it is to conform the election, out of three instead of five, to the spirit of the Constitution, that we wish to adopt that number, and the wish to keep it out of the House of Representatives is already sanctioned by the Constitution. Where, then, is this contradiction—this abandonment of one principle and adoption of another? When he referred to one part of the gentleman's speech and compared it with another, he felt some concern when he considered the gentleman as the champion of the small States.

Mr. ADAMS said he did not profess to be the champion of the small States.

Mr. SMITH.—When the gentleman first rose he said he was the representative of a large, and he did call for the champions of the small States to come forth, in their defence; upon the failure of an answer to this challenge he had boldly entered the lists himself in their defence, and carried his chivalry so far as to marshal the contending parties, contrary to all former order, into sixteen small and one large State! What was the intention of this mode of distinction; to what end was it directed? Was it not to excite envy and jealousy, the worst of all passions which affect man? Was it consistent with professions of regard for the public good to encourage this rivalry of States—the commercial against the agricultural—the East against the South—the small against the large? There was something in this besides liberality. He says he is not the champion of the small States, yet he tells you how they could be stirred up and what would be the consequence if they were roused; he tells you of the distinction between federative and popular principles; and has employed all his ingenuity to induce the belief that we wish to undo the federative principle, to sacrifice it to the popular principle, which is, he has told you, the thing above all others which would stir up the small States and no doubt arm this classification of sixteen against the one State. But the people

were not to be stirred up by such argument; they would know the value of national union and unanimity to their prosperity and liberty too well to be led away by anything we may say or do on this floor.

While he was up he would offer an observation or two on what had fallen from the gentleman from South Carolina. He had said that the object of the amendment was to prevent the election of a Federal Vice President. Undoubtedly such would be the effect of the amendment. The real effect of the amendment was two-fold—to guard against the dangers of intrigue and corruption, and to place the choice in the power of the people. Could that gentleman who was a member of the Convention object to render one of its fairest and best principles more safe and secure? Was it an objectionable principle to secure to the majority of the people the right of choosing their chief officers? This was intended by keeping the election out of the other House, and by limiting the number to three to leave as little room for corruption as possible, should it ever devolve by any accident on that House to make the choice. For if ever the right should again devolve on that House, he not only saw reason to apprehend corruption among ourselves but dread it from foreign nations. Had our people been as corrupt as European nations generally are, there was a facility for it at our late election; but the members were incorruptible and we were saved. It is to guard against the danger we look for this amendment. That gentleman being a member of the Convention who formed the Constitution deems it sacrilege to touch that instrument, yet in an early state of discussion he had found that sacred as it was to him there was a part which he wished to change, and had brought forward an amendment for the purpose. The merits of that gentleman's amendment he was not now called upon to discuss, but with the lights which he at present possessed, it was probable he might give it his approbation; and it surely could not be deemed so extraordinary if other gentlemen should wish to amend certain parts, when one of the framers of the Constitution had thought it susceptible of amendment.

Mr. PICKERING had not intended to have spoken on this question so far as it concerned the numbers; but as he should probably vote differently from his colleague, he conceived it proper to give his motives for his vote. His wishes for the entire preservation of the Constitution were so strong, that he regretted any change was contemplated to be made in it, and he wished if an alteration was made to keep as near as possible to the spirit of the Constitution as it now is, and it appeared to him that the number *three* conformed more to that spirit than the number *five*. He believed it to be the intention of the Constitution, that the people should *elect*. As to what gentlemen said concerning the will of the people, he paid but little regard to it. The will of the people! he did not know how the will of the people could be known—how gentlemen came by it; it would not be asserted that it was to be found in

the newspapers, or in private society; in truth he believed it never had been fairly expressed on the subject. We have seen an amendment brought forward from New York, but was that an expression of the public opinion? if it was, it was a very remarkable one, for it contained an absurdity—visible to every one. He wished to avoid innovations on the Constitution, and to preserve the combined operation of federative and popular principles upon which it rested unimpaired.

Mr. WORTHINGTON hoped the number three would be adopted in preference to five. Nevertheless he approved so much of the principle of designation in the election of the President and Vice President, that rather than lose it he would vote for it with either number.

The yeas and nays being called for on filling up the blank with the largest number according to order; the votes were—yeas 12, nays 19, as follows:

YEAS—Messrs. Adams, Bailey, Butler, Condit, Dayton, Hillhouse, Olcott, Plumer, Tracy, Wells, White, and Wright.

NAYS—Messrs. Baldwin, Bradley, Breckenridge, Brown, Cocke, Ellery, Franklin, Jackson, Logan MacLay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Taylor, and Worthington.

The question on the number three being inserted was then put, and the yeas and nays being demanded by one fifth of the members present; they were, yeas 21, nays 10, as follows:

YEAS—Messrs. Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Ellery, Franklin, Jackson, Logan, MacLay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Taylor, Worthington, and Wright.

NAYS—Messrs. Adams, Butler, Condit, Dayton, Hillhouse, Olcott, Plumer, Tracy Wells, and White.

The House then adjourned.

#### WEDNESDAY, November 30.

Mr. JOHN SMITH presented the petition of William Gahagan and others, settlers at Dayton and Mercer's Station, in the State of Ohio, praying a deduction from the price of certain lands stipulated for, on the 15th of November, 1795, for reasons stated in the petition; and the petition was read.

*Ordered*, That it be referred to the committee appointed on the 1st instant, on the petition of John Crouse and others, to consider and report thereon to the Senate.

On motion, it was agreed that the consideration of the bill, entitled "An act to repeal an act, entitled 'An act to establish an uniform system of bankruptcy throughout the United States,'" the order of the day, be postponed.

#### AMENDMENT TO THE CONSTITUTION.

The Senate resumed the consideration of the report on the amendment to the Constitution as amended yesterday, which was read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following amendment be proposed to the Legisla-

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tures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, viz :

In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, of whom one at least shall not be an inhabitant of the same State with themselves. The person voted for as President having a majority of the votes of all the Electors appointed, shall be the President; and if no person have such majority, then, from the three highest on the list of those voted for as President, the House of Representatives shall choose the President. But in choosing the President, the votes shall be taken by States, the representation from each State having one vote: a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.

The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person Constitutionally ineligible to the office of President, shall be eligible to that of the Vice President of the United States.

Mr. BRADLEY thought some provision should be made against the difficulties which might arise upon an equality of votes between several candidates. For example, though the amendment as it stands contemplates a choice from the three highest, there may be four who have equal numbers.

Mr. WRIGHT said it was not possible, under the designating principle, for four persons to have an equal number, and have a majority of the whole of the votes likewise.

Mr. ADAMS thought that some explanation should be given of the principle upon which the votes were to be counted; and if it were to go to the House of Representatives, whether the choice was to be made from the three highest numbers, even if three were unequal, or if only two were equal, in numbers, and the third being one of the highest, were still less in number than the other two.

Mr. BRADLEY said that, under the amendment as it now stood, a candidate with one vote may be chosen, (for there had been single votes,) and there being two candidates equal in votes, then the House of Representatives would have the power to choose the third. He would offer an amendment.

Mr. SMITH wished the gentleman would let his amendment lie over for the present, or it might be printed.

Mr. TAYLOR thought that the word "highest," in the eighteenth line, should be changed.

Mr. BUTLER.—It is evident gentlemen cannot agree among themselves. Now, if one side proposes one measure, and another a second measure, and so on to a third and a fourth, (all of which appeared to him objectionable,) there was little

prospect of arriving at any useful conclusion. Yesterday we had heard of objections to extreme cases, and yet all the arguments used were drawn from extreme cases. If they were data then, they must be data now. But it was very clear that the real object was to take away from a portion of society every share of participation in the choice of Vice President. If the people could but have heard their representatives, they could not but smile at them. Notwithstanding the respect which he personally bore for the gentleman from Virginia, (Mr. TAYLOR,) he did not completely explain, to his satisfaction, the menace against the smaller States. As to those arguments which were employed against the election devolving on the other House, he thought it was paying the people a poor compliment to say they make a selection of Representatives for that House in whom trust cannot be placed, and that their delegates resemble the representatives of rotten English boroughs: this he thought an extreme case—an extremely hard case. We had been told, also, that the people wished for the number *three*. He should like to have some other evidence than the bare opinion of gentlemen.

The PRESIDENT called to order.

Mr. BUTLER was willing to reserve what he had to say to a future time.

The PRESIDENT observed the House was now ready to receive amendments proposed by gentlemen.

Mr. BUTLER thought the amendment of the member from Vermont should have the preference, as it was first offered.

Mr. BRADLEY's amendment was called up, read, and lost—ayes 10, noes 20.

A desultory presentation of amendments, without going into detailed argument, now took place, in which Messrs. JACKSON, TAYLOR, NICHOLAS, WRIGHT, and TRACY, took part; when

Mr. ADAMS observed, from the multitude of amendments, it now became difficult to comprehend it. He suggested the propriety of adjourning, so that the amendments might be all printed, which was agreed to.

THURSDAY, December 1.

Mr. BUTLER presented the petition of James Simons, lieutenant in Colonel Washington's regiment, and brigade major in the corps of light troops of General Greene's army, during the late Revolutionary war, praying to be allowed the commutation as paid to other officers of similar grade, for reasons stated at large in the petition; and the petition was read, and referred to Messrs. BUTLER, JACKSON, and BRADLEY, to consider and report thereon to the Senate.

AMENDMENT TO THE CONSTITUTION.

The Senate took up the amended report, as amended the preceding day, which was as follows:

"Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That

in lieu of the third paragraph of the first section of the second article of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the Legislatures of the several States, shall be valid, to all intents and purposes, as part of the said Constitution, to wit: 'The Electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves. They shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each; which lists they shall sign and certify, and transmit sealed to the seat of the Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such a majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President. But, in choosing the President, the vote shall be taken by States, the representation from each State having one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States must be necessary to a choice.

"The person having the greatest number of votes as Vice President shall be the Vice President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President. A quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person Constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States."

MR. DAYTON moved to strike out from the words "and Vice President," in the twelfth line, and all that concerned the Vice President in that paragraph.

THE PRESIDENT said it was not in order to strike out.

MR. DAYTON then moved to strike out all that related to a Vice President in the forty-third line, and to the end of the paragraph.

THE PRESIDENT said that it was not in order in that stage of the business to strike out any part.

MR. DAYTON.—If there is no way to come at the abolition of that office, when the majority of the Senate have it so much at heart, he must even give it up as a fruitless attempt.

MR. TRACY concurred in the decision of the Chair. The motion, however, arose from not reading the resolution three times, as was the usage with bills; in which cases, having amended them on a second reading, you cannot amend on a third without the consent of the whole. Here you have amended, and the resolution is taken up amended; if the Senate is determined it shall

have but the one reading, there is no remedy; but the form of proceeding is so different from Parliamentary rules, that some correction of it should take place. He asked what would now be the regular question?

THE PRESIDENT.—On inserting the amendments adopted in Committee of the Whole, in the report of the select committee.

MR. NICHOLAS said, the object of the gentleman from New Jersey was to abolish the office of Vice President; but the sense of the Senate had been already expressed on that subject. He hoped the time of the House would not be lost on a subject already decided.

MR. DAYTON would not ask any favor.

MR. ADAMS.—If an amendment cannot be inserted now, he thought the mode of proceeding inconsistent with order. He understood that, originally, it was decided that nothing should be considered as final which had not the sanction of two thirds; and he had held back some amendments under the impression that it was still open. If the rules of the Senate determine that a resolution shall have but one reading, there was a palpable contradiction between them and the rules of the other House.

THE PRESIDENT entered into a circumstantial detail of the progress of the proceedings on the amendment; and concluded by stating that the proceedings had been perfectly regular and according to order; that, in the present stage, all that had been adopted must be considered as ready for the final vote; that no amendment could be made inconsistent with what had been already agreed to in the detail; but that it was still open to any amendment not incompatible with what was already adopted.

MR. PICKERING offered an amendment in addition, and not incompatible with what had passed. It was to insert after the word "President," in the thirty-second line, the following words: "But if within twenty-four hours no election shall have taken place, then the President shall be chosen by law." This amendment he offered as a remedy by which we could avoid that civil war threatened on a former occasion.

MR. ADAMS wished the motion to be varied so as to come in after the 37th line. The motion he considered as embracing an object extremely important, and though the case was an extreme one, of no election being made, it was not unprecedented, for it had very recently happened in New Jersey, where no Governor had existed for a whole year. He did not approve of the precipitation with which the Senate was carrying this amendment forward. He considered it as intending to prevent a federal Vice President being chosen. He hoped that the House would proceed with more deliberation.

MR. PICKERING consented to the alteration proposed by his colleague.

MR. TRACY thought the amendment offered by the gentleman from Massachusetts like a great many others, it would require a dozen more amendments to explain it. How was the choice to be made of a person to be chosen by law?

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Mr. PICKERING.—The States might choose by lot, or by ballots in a box, which the President might collect; or a number of names might be put in a box from which the Speaker might draw one.

Mr. SMITH admired the ingenuity of gentlemen, as they left all consideration of what the people would wish or think about such a proceeding out of the question. Suppose they were to throw the dice for the Executive Chair! It would be equally wise with any of the expedients offered; the gentlemen could serve their friends; the candidates names might be written, and the highest throw have it!

Mr. TRACY.—However gentlemen may ridicule the ballot, it has a precedent. By the constitution of Kentucky it is provided that when two candidates are equal in votes, the choice shall be made by lot.

Mr. BRECKENRIDGE.—That practice has been long exploded.

Mr. HILLHOUSE.—We had been told, some days ago, that a candidate proposed to be chosen by law, was near having his head cut off; such a process would be rather disagreeable to him. He wished to avoid it himself, and to prevent others getting into such a critical situation, and if the amendment were to be adopted, he had no doubt that nineteen times out of twenty, the choice would devolve on the House of Representatives. It was certainly not an unusual practice in elective governments to choose persons for eminent stations by lot. It was very common at Athens, and they were a very wise and prosperous people, and had an orderly and well regulated Government. It would certainly be a preferable mode to the choice at the point of the bayonet. If he had any conception of the operation of the proposed amendment, it would be to produce no election. The complex mode provided by the Constitution was conceived in great wisdom. It was necessary, when the country was agitated, to operate as a check upon party and irregular passions. Parties will always have their champions, and they will be always well known; to attack another champion is to restrain the passions by some degree of uncertainty during the contest. But, by the new amendment, it would be every man to his own book, and every demagogue would be a leader and a champion, and, in the contest, parties would be divided between the two principal champions, and a third would come in and win the race.

If every man were to act correctly, no party passions would prevail on an occasion so important; but carry the champions of two opposite parties to the House of Representatives, and instead of voting thirty-seven times before they decide, as on the last occasion, they will vote thirty hundred times. You are told that, at the last election, one was intended by the people for President, and the other for Vice President; but the Constitution knows no vote for Vice President. Alter it as you now propose, and let two candidates be equal, and then you will be told that they were both intended for President. What will be

the consequence? On the third day of March neither party will give out, and it will end in the choice of a third man, who will not be the choice of the people, but one who will, by artful contrivances, bring himself to that place with the sole intention of getting in between them. Choice by lot would certainly be better than this. Would not any man prefer a choice by lot rather than such a course, as it would break up the Constitution, and leave the people without a President in whom they would confide?

The principle of the Constitution, of electing by electors, is certainly preferable to all others. One of the greatest evils that can happen is the throwing of the election into the House of Representatives. There, Pennsylvania, Virginia, Massachusetts, and New York, may combine; they may say to the other States, we will not vote for your man; for either of those States giving their whole votes to a third character may bring him in. We see the practice daily in Congressional elections, when both parties obstinately adhere to their candidate; a third is set up and carried in to the rejection of both. By the new mode proposed every man will have an interest to intrigue for himself to obtain the eminent station. Gentlemen may suppose that such is the predominancy of their party, they may carry in any President. But no party can long hold an ascendancy in power; they will ill treat each other—or some of them will disagree, and from the fragments new parties will arise, who will gain power and forget themselves, and again disagree, to make way for new parties. The Constitution was predicated upon the existence of parties; they will always exist, and names will not be wanting to rally under, and difference of interests will not be wanting for pretexts: the agricultural will be arrayed against the mercantile; the South against the East; the seaboard against the inland. As to what he had heard about cutting off heads, he supposed that could not have been meant as a threat; in his part of the country such a crime could not take place. The gentleman, however, must be supposed to know his neighbors better than he did, but he could not suspect such danger from a valiant people.

Mr. PICKERING said the amendment he had offered was suggested to him by the alarming picture of danger drawn by the gentleman from Maryland. He thought the dangers indeed exaggerated, though possibly they might not be; but he thought it proper to provide how elections should be conducted, and to determine between tumult or civil war and law.

Mr. SMITH did say that, at the last Presidential election, the party opposed to the present Chief Magistrate did contemplate laying aside the popular choice and electing a President by a law to be passed for the occasion, at the time: he had also said, that had the measure been carried into effect, the person, whoever he might have been, would have met the fate of an usurper, and his head would not have remained on his shoulders twenty-four hours.

Mr. WRIGHT.—It had been said, that we meant

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to precipitate this amendment of the Constitution—to make the minority swallow it; he hoped the gentlemen, in their eagerness to render it insipid, would not make it totally unpalatable to us: as they had proceeded, the modes they had proposed struck him at least by their novelty. Since what was offered was not satisfactory, and they were willing to commit it to chance, why did they not take up the ancient mode of *grande bataille*? we should have no objection to have it decided by the champions of both parties armed with tomahawks! Gentlemen talk of the danger and of the rights of the small States, do they expect that any man can think their professions serious, when they are, at the same time, willing to commit their rights to the chance of a lottery? The rights of freemen are not to be gambled away, or committed to chance, or sorcery, or witchcraft; we look to reason and experience for our guides; we seek for the means most conducive to the general happiness; to this, reason conducts us. By experience, we correct what may have escaped our sagacity at first, or may have been defective or erroneous in practice. It is upon these principles our Constitution is founded; it is for these words that the provision is made in the Constitution itself for its own amendment; and it is not compatible with reason, or with the principles of the Constitution, to commit anything to capricious fortune, in which reason and human rights are concerned. Gentlemen charge us now with a wish to press this amendment forward with precipitation; what do gentlemen mean by this? A few days only have passed, when the same gentlemen were eager for an immediate decision; they declared their readiness to decide immediately; that the subject was as well understood then as ever it would be; and that we delayed the decision to the exhaustion of their patience. The subject has, nevertheless, undergone a long discussion, and the time has only served to prove that the gentlemen were at first mistaken, or that the numerous amendments which they have brought forward have their origin in other considerations.

Mr. ADAMS had declared that he was ready to give his vote upon the amendment in the first stage; but it did not therefore follow, that when his opinion on the whole was not likely to prevail, that he should endeavor to render it as palatable as possible. He was totally adverse to any decision by lot, and agreed perfectly with the gentleman from Maryland, that it was not a mode suited to the principles of our Government. But gentlemen say there is a defect, and wish to provide a remedy. He had drawn up an amendment which he should offer to the House, if that of his colleague should not be approved. He confessed he did approve of the designating principle, and for one among other reasons, that the present mode is too much like choice by lot. For instance, A may be intended by a large majority of the people for President, and B as Vice President; yet the votes might be so disposed, or chance might operate so contrary to intention, that the votes for B should exceed by a vote those for A. This was a defect in the Constitution; and there was

a further reason why he was in favor of the designating principle, and that was, that it appeared to be called for from all parts of the United States. It was very true, as had been observed, that sometime ago the opposers of the amendment did press for a decision; but he had seen those dispositions prevail alternately; but the minority had not so much pressed for a decision as for the discussion of the question.

Mr. PICKERING suggested his wish to substitute forty-eight hours for twenty-four, in his amendment; and if the election should not then take place, a choice to be made in such manner as the House should direct.

The question, on Mr. PICKERING's motion, was then put and negatived, without a division.

Mr. ADAMS then moved the following amendment: In the 37th line, after the word "choice," insert—

"And in case the House of Representatives shall not, within ——— days, effect the choice in manner aforesaid, and there be a Vice President duly elected, the said Vice President shall discharge the powers and duties of the President of the United States. But if the office of Vice President be also vacant, then the said powers and duties of President of the United States shall be discharged by such person as Congress may by law direct, until a new election shall be had, in manner already prescribed by law."

Mr. HILLHOUSE thought that there should be provision made for the choice so made, to remain only until such period as the Electors could be called again.

Mr. DAYTON hoped the gentleman did not mean to lay a larger patch upon the Constitution than the hole they make in it required. Had gentlemen considered, that when there is a Vice President, that in case of death or inability, he alone can exercise the powers of the Executive, and that you cannot place any person over his head?

Mr. ADAMS.—The gentleman is certainly right; he had offered his proposition hastily. The observations which arise in this discussion evidently prove that we have not as full a consideration of the subject as it is susceptible of.

Mr. WRIGHT.—Gentlemen did not perceive that the House of Representatives are Constitutionally bound and impelled to choose when it devolves upon them: they are sworn to do their duty. The amendments offered are wholly founded on the presumed corruption of the House of Representatives. You may as well make provisions against the corruption of a jury.

Mr. HILLHOUSE.—There is another point which gentlemen appear not to have taken into view: how the objections of their oaths are to operate or be enforced, when the functions themselves expire on the third of March. There is another view of the subject, which ought not to be passed over: The members are sworn, to be sure, but one half of the House may sincerely believe that A is the popular choice; while the other half may as sincerely believe that the wishes of the majority are with B; and how are we to compel them by moral obligations, when the obligation rests wholly on the consciences of the individuals? The

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true principle, then, would be to make provision for the appointment of a person who should carry on the functions of Government till the Electors may again meet and choose a President. A provision vesting in the Senate the right of choice, even for one year, may be a motive for the other House to perform their duty promptly. It was not pleasant to discuss some topics, but we must discuss them, if we mean to avoid evil. We must suppose the existence of faction, of party, and even corruption, for we know that evil passions do and will exist, and that, by discussing, we guard against them. A House of Representatives elected two years before your Presidential election, may hold sentiments very different from him; the public mind may change in the time; and a party losing power may be led away by passion to conspire and throw every difficulty in the way.

Mr. BRADLEY thought the sentiments of the gentleman last up perfectly correct. He was satisfied that, if the House made no choice, the Vice President would administer the Government.

Mr. WRIGHT said that although the functions of the House of Representatives would expire with the third of March, yet there was, assuredly, time enough between the second Wednesday in February, and the third of March, to make a proper choice; nothing but obstinacy, or worse, would prevent an election; he would shut them up, like a jury, until they had made a choice: he could not conceive a case wherein any number of men in Congress would dare to set themselves up against the country, and put its happiness and their own lives at hazard, in such a way as the gentleman supposed.

Mr. S. SMITH.—The gentleman from Massachusetts (Mr. ADAMS) appears not to be perfectly satisfied with his own amendment; and certainly the gentleman from Connecticut had shown that the amendment was defective; the candor of that gentleman he must acknowledge, he had taken the strongest hold possible of the subject; he had laid the fruits of experience before you, and pointed out the weakness which you had to protect. He would recommend it to the gentleman from Massachusetts to alter his amendment, so as to make it, that, in case the House should fail to choose, then, in four days after, the Vice President shall be President.

Mr. ADAMS saw a new difficulty there also, for there may not be a majority for both, and provision will be necessary for the vacancy of the Vice Presidency.

Mr. HILLHOUSE thought there would be no danger of the Senate omitting to elect their President, who is, on a vacancy, the Vice President in fact. As to shutting the House up like a jury in a dark room, depriving them of fire, light, and food, he thought the measure too strong; he did not wish to see them at the mercy of the sheriff, who upon their laches might call in the *posse comitatus*, and trundle them out of the District, or send them to Coventry. If the House of Representatives should not make a choice, he saw no reason why the Government should not go on until an election should take place.

Mr. COCKE was astonished to see gentlemen going over so much unnecessary ground. Could they suppose the people so indifferent to their own rights as not to make an election? Or, do gentlemen mean all these cavillings as amusement—to display their ingenuity at finding fault? If there should be any failure of choice, why could not the Secretary of State arrange and carry on the Executive business until an election should again take place?

Mr. TRACY rose.

Mr. COCKE called for the question—the question!

Mr. TRACY.—Does the gentleman mean to call for the question while I am on the floor? I will not sit down upon such a call. What is the question, sir?

Mr. DAYTON hoped the gentleman from Massachusetts (Mr. ADAMS) would withdraw his amendment.

Mr. ADAMS thought the deliberation of one or two hours could not be thrown away.

Mr. WRIGHT hoped the decision on the amendment would not be pressed upon the House. What! is it proposed to take the choice of President out of the hands of the Electors and place it wholly in the House of Representatives, and tell them, hold out only four days, and you will then have the whole power in your hands; you may set aside all consideration for the wishes of your constituents—set popular opinion at defiance, and please yourselves by choosing a President of whom the people never thought? Gentlemen should avoid this dangerous path which they wish to prepare; the people will not bear to be frowned upon by those whom their breath has made, and can unmake.

Sir, it is our wish to prevent all these dangerous or fatal courses and consequences; and we should keep in mind, that whatever we may conclude upon here, is completely guarded, not alone by the necessary consent of the other House, but that of three-fourths of the States. The Constitution, sir, would be preferable as it is, without the odious and anti-republican forms which gentlemen propose to engross upon it. What, sir, determine a most important principle of effective government by a non-effective act—determine an election by holding out a temptation to non-election! He should prefer having the choice open to the Representatives bound by oath, by duty, and by the Constitution, to such an alternative. If men so placed would be so blind to the calls of duty, the public indignation would bring them to their senses before the fourth of March. Honor and their oaths, sir, would bind them. He had too much confidence in the choice of his countrymen, and of the virtue and morality of those who are sent to the important stations of Representatives, to think they disregarded their oaths or their duty. Some gentlemen tell us, indeed, they know of no persons who would raise their hands against an usurper, if he had been set up, and insinuate that it would be a crime; but they find ready belief for acts ten thousand degrees more base and heinous in themselves; they can



believe their countrymen capable of the breach of every tie of honor, of oaths, and of duty. Gentlemen must speak from their own knowledge; for his part, he was happy to say there were no such men among his acquaintance nor in his neighborhood.

The arguments which gentlemen draw from their experience would be with him powerful ones for opposing the measure which they are brought forth to sustain. For if men elected to such stations as seats in Congress are capable of the breach of every obligation of honor and oath, the greatest care should be taken to keep the power of election forever out of their hands, by rendering it impossible for the people not to elect; nay, he would prefer carrying the election to the individual vote of every citizen, without the intervention of Electors, to suffering it to go into any body liable to such dishonor.

An observation of the gentleman from Massachusetts (Mr. ADAMS) produced a sensation which at once showed that something besides the care of the people's rights had an influence here. He proposes that the proper officer, the Vice President, should succeed to the Presidential chair upon a failure of election or vacancy after a few short months. Whence arose the agitation and interest excited by this proposition? Is it because we wish not to see a man seated in the Executive chair whom the people never contemplated to place there, and who never had a vote?

Mr. DAYTON.—You are about to designate who shall be President and who Vice President; and some gentlemen have gone so far as to favor the choice of one who had not a vote for either office. The gentleman from Massachusetts, (Mr. ADAMS,) indeed, professes to have in view the succession of the Vice President to the Executive Chair when vacant. But gentlemen should perceive, that if you designate, the principle will be totally changed. He could not assent to the conclusion of some gentlemen on another point. If anything could be understood from the Constitution more clearly than another, it was that the votes are given to two persons for President, and that, as has been observed before, the Constitution never notices a vote for the office of Vice President. How, then, can it be said which was the person intended? The gentleman from Maryland (Mr. WRIGHT) had said that one of the candidates at the late election had not a single vote for President, while the official returns show that each and every vote was the same for both candidates as President.

Mr. TAYLOR.—That matter appears susceptible of a very simple explanation. There can be no question that in form, the votes for each candidate were equal; but that is not the question; the *quo animo* must be taken into view. Would any gentleman say no preference was intended? It is very true that such was the form, but looking to the well known intention, have you not in the very fact stated an evidence that the principle of designation is essential, were it only to prevent the consummation of an act never contemplated or expected?

Mr. DAYTON was for a postponement of the amendment.

Mr. JACKSON was for postponement also.

Mr. ADAMS's amendment was postponed, and ordered to be printed.

Mr. TAYLOR wished to offer an amendment as an addition to the report—

"*Provided*, That whenever the right of choosing a President shall devolve upon the House of Representatives, the Vice President shall act as President, in case they fail to make such choice, in like manner as in case of the death or resignation of the President."

It was moved that this, with the other amendment, be printed; and the House adjourned.

FRIDAY, December 2.

The Senate took into consideration the motion made on the 28th of November last, for the appointment of a committee, to report by bill or otherwise, respecting the naval armament of the United States; and, having agreed thereto,

Ordered, That MESSRS. SAMUEL SMITH, ISRAEL SMITH, and JOHN SMITH, be the committee.

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The order of the day being the amendment proposed in the House of Representatives, to be made to the Constitution of the United States, and the report of the committee being under consideration,

Mr. TAYLOR, of Virginia, desired to withdraw his motion of the preceding day, in order to accommodate the terms of his proposition to the wishes of gentlemen. His only object was to obtain the principle, and provided that was obtained in such a manner as to promise an accomplishment of the good intended thereby, he should consider the words in which the provision was to be couched of inferior moment. In lieu of the addition which he offered before, he now proposed to insert after the word *choice*, in the 37th line, the following words:

"And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the 4th day of March next following, then the Vice President shall act as President, as in case of the death or other Constitutional disability of the President."

Mr. ADAMS had no sort of objection to this addition to the paragraph; it reached his ideas as far as it went; but he conceived that though this made a very necessary provision for the case of the President, it did not go far enough, inasmuch as no provision was made in case there should be no Vice President. He would submit this case to gentlemen, that if there was no Vice President existing nor any more than a President chosen, in the event of a high state of party spirit, would it be difficult to foresee that there would be much room left for contention and evil? Unless provision should be made against the contingency, therefore, the amendment would be imperfect, in his mind. Like the gentleman from Virginia, he was not tied to words, but he thought it worth while to employ two lines to provide against the danger.



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Mr. HILLHOUSE concurred in the amendment of the gentleman from Virginia but he hoped the idea of the gentleman from Massachusetts would also be adopted.

Mr. PICKERING objected to the length of time allowed for the House of Representatives to decide. We have been told that the small States, from the smaller number of votes, are exposed to corruption; he wished no time to be left for corruption to operate, and he therefore desired that the period for the House of Representatives to decide should be limited to forty-eight hours or three days.

Mr. WRIGHT approved of the amendment that had been offered in all its parts; and the more so as it in effect supplies a deficiency which exists in the Constitution even as it now stands.

The amendment was agreed to—yeas 22, nays 10, as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Taylor, Worthington, and Wright.

NAYS—Messrs. Adams, Butler, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

Mr. ADAMS offered another amendment, of the following effect, to be added to the provisions concerning the election of Vice President:

“And if there shall be no Vice President duly elected within ten days after the fourth of March, then the power and duties of the President of the United States shall be discharged by such person as shall be by law invested with that power, until such time as a new election by Electors shall take place.”

Mr. TRACY wished to know why ten days was the period fixed?

Mr. ADAMS.—Because the amendment proposed gives the House of Representatives until the fourth of March, during which time the old Vice President continues in office; and ten days appeared to him a reasonable period; but he was not tied to any particular number of days.

Mr. TRACY would prefer the word “vacant,” suggested yesterday, to the words “not duly elected.”

Mr. HILLHOUSE was not disposed to concur with the proposed amendment; he did not think a period of agitation a proper one to make choice of an officer of so much power; he would prefer making provision by law before the happening of the event; for, in a high state of party he could see no likelihood of an agreement, and out of disagreement confusion might arise. His wish was to have some person designated who should discharge the Executive duties until an election should take place, and that this officer should be previously fixed upon, so that party spirit should have no room for agitation.

Mr. JACKSON could not discern the necessity of the proposition now offered; the case proposed to be provided against, he thought so extreme as likely never to happen. Besides, the mover appeared not to have taken it into consideration that one-third of the Senate go out at the close of the second session of every Congress by rotation, and would he have only two-thirds to make the law which was to provide for this choice? Upon the principle of

the general amendment, he had not at first made up his convictions, but the amendment adopted had removed his doubts, and he thought this addition to this amendment unnecessary. He hoped the Senate would abide by that they had already agreed to, and preserve the right of choice, to the people.

Mr. WRIGHT.—There was another difficulty which the gentleman from Massachusetts appears not to have foreseen. To make a law it is not enough that the Senate are present even if complete; the House of Representatives is necessary to an act of legislation, and that body can have no existence after the fourth day of March, nor within the ten days suggested, for they could not, if all elected, be called even by proclamation within that time; and further, if there should be no election of President, there would be no power to convene Congress; so that the proposed addition is improper altogether.

Mr. ADAMS did not feel extremely solicitous for the proposition; when the Constitution is proposed to be amended, however, he was disposed to offer every suggestion which might appear to him calculated to render it more perfect. The objections offered by the gentleman from Georgia, highly as he respected his opinion, did not appear to him conclusive; for his calculations of time and circumstances do not entirely correspond with experience past. The President has at all times heretofore been inaugurated after the House of Representatives had closed its session by limitation, and the Senate had been uniformly assembled for the purpose of the inauguration. Here then is a body in session, and if there shall not be a Vice President chosen, they can and must proceed to choose one, and that choice would of course fall, as proposed, upon one of the candidates. The gentleman from Connecticut (Mr. HILLHOUSE) had mistaken his view, concerning the choice of a person by law; his intention certainly was to provide for the future contingency by a previous law.

Mr. JACKSON still conceived the gentleman's proposition founded in mistake; for it would be impracticable for the Senate to act, since, according to the rules of the Senate, two-thirds of the whole are necessary to form a quorum; one third must Constitutionally go out of that body at the time, and the absence of a single member would disable the Senate from business.

Mr. ADAMS.—There would remain still two-thirds of the Senate, and it would be the duty of the Executive to call them together, as had been done in some cases; and as to the deduction of the third by rotation, there are several of the small States that elected their Senators several months before the period. To argue that they would neglect it, would be to argue that the States are indifferent to their representation on this floor.

Mr. JACKSON.—We know that vacancies do occur from other causes than indifference or neglect of States; we know that at this moment New York has but one Representative on this floor, and that New Jersey had but very lately been so much embarrassed by a faction as to leave her for sometime without more than one Senator.

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The question on the amendment of Mr. Adams was then put and lost without a division.

Mr. PICKERING.—The case which the gentleman from Georgia founded his arguments upon applies to a non-election, and thought such a case an extreme one; he thought differently, and the Constitution as it now stands has made a provision for such an exigency. Some provision should be made for such a case; he would therefore move an amendment, which would provide for the event of a non-election, to insert after the words President:

“But if on the 4th of March the office of Vice President shall be vacant, then the powers which devolve by the Constitution on the Vice President, shall be exercised by such persons as the law shall direct, until a new election.”

Mr. HILLHOUSE.—This amendment would supply all that was proposed by the allowance of ten days in a former amendment, and it seemed to him indispensable, because as the non-election of both President and Vice President may happen, there should be some organ to keep the wheels of Government in motion. It appeared to him to be necessary to provide for this contingency as for that of the death of the President or Vice President.

The amendment was lost, without a division.

The main question of the whole resolution then recurring,

Mr. WHITE, of Delaware, rose and addressed the Chair as follows:

Mr. President, it may be expected that we, who oppose the present measure, and especially those of us who belong to the smaller States, and who think the interests of those States will be most injuriously affected by its adoption, shall assign some reasons for our opinion, and for the resistance we give it: I will for myself endeavor to do so. I know well the prejudices of many in favor of this proposed amendment to the Constitution; I know too, and acknowledge with pleasure, the weight of abilities on the other side of the House by which those prejudices, if I may so be permitted to call them, will be sustained; this might perhaps be sufficient to create embarrassment or even silence on my part, but for the consciousness I feel in the rectitude of my views, and my full reliance on the talents of those with whom I have the honor generally to think and act. Upon a subject of the nature and importance of the one before us a great diversity of sentiment must be expected, and is perhaps necessary to the due and proper investigation of it. Without detaining the Senate with further preliminary remarks, presuming upon that patience and polite indulgence that are at all times extended by this honorable body to gentlemen who claim their attention, I will proceed immediately to the subject of the resolution; barely premising that notwithstanding the opinions of the gentleman from Virginia (Mr. TAYLOR) and the gentleman from Georgia, (Mr. JACKSON,) whose opinions I highly respect, I must yet think with my honorable friend from New Jersey (Mr. DAYTON) that the Constitution of the United States bears upon the face of it the strong-

est marks of its having been made under the influence of State classifications. It was a work of compromise, though not formed, as stated by the gentleman from Virginia, by the large States yielding most, but by the smaller States yielding much more to the general good.

It will be recollected that, previous to the adoption of the Constitution, on all Legislative subjects, in fact, on every measure of the Constitution, each State had an equal voice; but very different is the case now, when, in the popular branch of your Government, you see one State represented by twenty-two members, and another by but one, voting according to numbers. So that, notwithstanding the ideas of those gentlemen, and the declaration of an honorable member from Maryland, on my right, (Mr. SMITH,) that, during his ten years' service in Congress, he had never seen anything like State jealousies, State divisions, or State classification, I must be permitted to predicate part of my argument upon this business. Should any gentleman be able to show that the foundation is unsound, the superstructure of course will be easily demolished. Admitting, then, sir, for the sake of argument, that there were no very great objections to this proposed alteration in the mode of electing a President and Vice President, and that it were now part of the Constitution, it might be unwise to strike it out; unless much stronger arguments had been urged against than I have heard in favor of it, yet I would not now vote for its adoption. What appears specious in theory, may prove very inconvenient and embarrassing in practice, and my objections go to any alteration of the Constitution at this time; we have not given it a fair experiment, and it augurs not well to the peace and happiness of the United States to see so much increasing discontent upon this subject. so many projected alterations to the great charter of our Union and our liberties; not less than four are now upon our tables, and which, if adopted, will materially change the most valuable features of the Constitution. The first alters the mode of electing the President and Vice President; the second changes the ground upon which the Vice President is to be appointed by the Senate, in case one is not elected by the Electors, according to the Constitution; the third extends the powers of the Senate in the choice of this latter officer beyond what was ever contemplated by the people of this country; and the fourth, which is not now immediately before us, goes to incapacitate any citizen from being eligible to the office of President more than a certain number of years. All these important changes we are about to introduce into the Constitution at once; and, indeed, were attempted to be forced into a final vote upon them, in little more than the space of one day from the moment they were submitted to us. Are we aware of what we are about? Is this the way in which the Constitution was formed? Was it put together with as much facility and as little reflection as we are tearing it to pieces? No, Mr. President, it was constructed after much thought, after long and mature deliberation, by the collected wisdom and patriotism of America, by such a set

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of men as I fear this country will never again see assembled; and we should be cautious how we touch it. The fewer changes we make in it, the longer it remains; the older it grows the higher veneration will every American entertain for it; the man born to its blessings, will respect it more than him who saw its birth; he will regard it not only as the great bulwark of his liberties, but as the price of the blood of his ancestors—as a sacred legacy from his father, deposited with him for the benefit of himself, and in trust for his posterity. But if, in this way, every succeeding Congress, every party enjoying the short-lived triumph of a day, shall be mutilating it with alterations, from whatever motives, either to thwart their political opponents, or to answer particular purposes, ere long no trace of the original instrument will remain; it will be kept in a state of tottering infancy, until some Gallic Cæsar, turning to his advantage an unhappy moment of popular phrenzy, may make the last change, by trampling upon its ruins, and substituting the strong arm of power in its place.

What, sir, let me ask, are the objects of these proposed amendments? The first, we are told, will so mark, so designate the man to be President, as to close forever the doors upon that subject! Could this be the effect, the adoption of it would indeed be wise and provident; but I fear a directly contrary tendency, that will open a new and immense field for intrigue.

The United States are now divided, and will probably continue so, into two great political parties; whenever, under this amendment, a Presidential election shall come round, and the four rival candidates be proposed, two of them only will be voted for as President—one of these two must be the man; the chances in favor of each will be equal. Will not this increased probability of success afford more than double the inducement to those candidates, and their friends, to tamper with the Electors, to exercise intrigue, bribery, and corruption, as in an election upon the present plan, where the whole four would be voted for alike, where the chances against each are as three to one, and it is totally uncertain which of the gentlemen may succeed to the high office? And there must, indeed, be a great scarcity of character in the United States, when, in so extensive and populous a country, four citizens cannot be found, either of them worthy even of the Chief Magistracy of the nation. But, Mr. President, I have never yet seen the great inconvenience that has been so much clamored about, and that will be provided against in future by substituting this amendment. There was, indeed, a time when it became necessary for the House of Representatives to elect, by ballot, a President of the United States from the two highest in vote, and they were engaged here some days, as I have been told, in a very good-humored way, in the exercise of that Constitutional right; they at length decided; and what was the consequence? The people were satisfied, and here the thing ended. What does this prove? that the Constitution is defective? No, sir, but rather the

wisdom and efficiency of the very provision intended to be stricken out, and that the people are acquainted with the nature of their Government; and give me leave to say, if fortune had smiled upon another man, and that election had eventuated in another way, the consequence would have been precisely the same; the great mass of the people would have been content and quiet; and those factious, restless disorganizers, that are the eternal disturbers of all well administered Governments, and who then talked of resistance, would have had too much prudence to hazard their necks in so dangerous an enterprise. I will not undertake to say that there was no danger apprehended on that occasion. I know many of the friends of the Constitution had their fears; the experiment however, proved them groundless; but what was the danger apprehended pending the election in the House of Representatives? Was it that they might choose Colonel Burr or Mr. Jefferson President? Not at all; they had, notwithstanding what had been said on this subject by the gentleman from Maryland, (Mr. WRIGHT,) a clear Constitutional right to choose either of them, as much so as the Electors in the several States had to vote for them in the first instance; the particular man was a consideration of but secondary importance to the country; the only ground of alarm was, lest the House should separate without making any choice, and the Government be without a head, the consequences of which no man could well calculate. The present attempt, to say the least of it, as has been well observed by my honorable friend from Jersey, (Mr. DAYTON,) is taking advantage of a casualty to alter the Constitution that astonished every one when it happened, and that no man can imagine, in the ordinary course of events, will ever arise again. Sir, every hour that is added to the age of our Government, every day's increasing population of our country, every State admitted into the Union, renders still more remote even this improbable contingency. Gentlemen have urged, with exulting confidence, and particularly the honorable gentleman from Maryland, (Mr. SMITH,) that the people have long thought on this subject, and prepared for the amendment, and expect its adoption. I respect the sentiments of the people as highly as any man when they are well digested and clearly expressed; but in my mind this is a dangerous ground to advance far upon, without examining it well for ourselves; it is an argument that will apply alike to almost every question of importance, and goes to preclude debate upon them; for it is well known that there are few such submitted to us that have not been previously the subject of thought and speculative conversation out of doors. Ours is a country of politicians, and from the nature of our Government must continue so; every member of society feels such a portion of interest in the affairs of the nation as to excite inquiry; be his lot humble or exalted, be his sentiments right or wrong, he expresses them, as he is entitled to do, with freedom; but is it abroad in the country that the most important measures of the Government are to be matured and decided upon? Is it

in private circles, in caucuses, in clubs, in coffee-houses, streets, and bar-rooms, that great Constitutional questions are to be settled? And are we convened here but to register the crude decrees of such assemblages, or only for the humble purpose of answering to the call of our Secretary with a yea or nay? If the argument proves anything, it amounts to this. Would the gentleman from Maryland, or any other honorable member, be content to hold his seat upon such terms? If so, he may indulge himself in one consolation, that no private citizen would envy him the place; but for myself I claim the exercise of higher and more responsible privileges of thinking and acting for myself, holding it my duty, so far as I am capable, to assign to my constituents the reasons that govern my public conduct.

It has of late, Mr. President, become fashionable to attach very little importance to the office of Vice President, to consider it a matter but of small consequence who the man may be; to view his post merely as an idle post of honor, and the incumbent as a cypher in the Government; or according to the idea expressed by an honorable member from Georgia, (Mr. JACKSON,) quoting, I believe, the language of some Eastern politician, as a fifth wheel to a coach; but in my humble opinion this doctrine is both incorrect and dangerous. The Vice President is not only the second officer of Government in point of rank, but of importance, and should be a man possessing, and worthy of the confidence of the nation. I grant, sir, should this designating mode of election succeed, it will go very far to destroy, not the certain or contingent duties of the office, for the latter by this resolution are considerably extended, but what may be much more dangerous, the personal consequence and worth of the officer; by rendering the Electors more indifferent about the reputation and qualification of the candidate, seeing they vote for him but as a secondary character; and which may occasion this high and important trust to be deposited in very unsafe hands. By a provision in the first section of the second article of the Constitution, "in case of the removal of the President from office, or of his death, resignation or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President"—and he is Constitutionally the President, not until another can be made only, but of the residue of the term, which may be nearly four years; and this is not to be supposed a remote or improbable case. In the State to which I have the honor to belong, within a few years past, two instances have happened of the place of Governor becoming vacant, and the duties of the office, according to the constitution of that State, devolving upon the Speaker of the Senate. We know well too, generally speaking, that before any man can acquire a sufficient share of the public confidence to be elected President, the people must have long been acquainted with his character and his merit; he must have proved himself a good and faithful servant, and will of course be far advanced in years, when the chances of life will be much against him. It may indeed, owing to popu-

lar infatuation, or some other extraordinary causes, be the ill fate of our country, that an unworthy, designing man, grown old and gray, in the ways of vice and hypocrisy, shall for a time dishonor the Presidential chair, or it may be the fortune of some young man to be elected, but those will rarely happen. The Convention in constructing this part of the Constitution, in settling the first and second offices of the Government, and pointing out the mode of filling, aware of the probability of the Vice President succeeding to the office of President, endeavored to attach as much importance and respectability to his office as possible, by making it uncertain at the time of voting, which of the persons voted for should be President, and which Vice President; so as to secure the election of the best men in the country, or at least those in whom the people reposed the highest confidence, to the two offices—thus filling the office of Vice President, with one of our most distinguished citizens, who would give respectability to the Government, and in case of the Presidency becoming vacant, having at his post a man Constitutionally entitled to succeed, who had been honored with the second largest number of the suffrages of the people for the same office, and who of consequence would be probably worthy of the place, and competent to its duties. Let us now, Mr. President, examine for a moment the certain effect of the change about to be made, or what must be the operation of this designating principle, if you introduce it into the Constitution; now the Elector cannot designate, but must vote for two persons as President, leaving it to circumstances not within his power to control which shall be the man: of course he will select two characters, each suitable for that office, and the second highest in vote must be the Vice President; but upon this designating plan the public attention will be entirely engrossed in the election of the President, in making one great man. The eyes of each contending party will be fixed exclusively upon their candidate for this first and highest office, no surrounding object can be viewed at the same time, they will be lost in his disc. The office of President, is in point of honor, profit, trust, and influential patronage so infinitely superior to any other place attainable in this Government, that, in the pursuit and disposal of it, all minor considerations will be forgotten, everything will be made to bend, in order to subserve the ambitious views of the candidates and their friends. In this angry conflict of parties, against the heat and anxiety of this political warfare, the Vice Presidency will either be left to chance, or what will be much worse, prostituted to the basest purposes; character, talents, virtue, and merit, will not be sought after, in the candidate. The question will not be asked, is he capable? is he honest? But can he by his name, by his connexions, by his wealth, by his local situation, by his influence, or his intrigues, best promote the election of a President? He will be made the mere stepping-stone of ambition. Thus, by the death or other Constitutional inability of the President to do the duties of the office, you may find at the head of your Govern-

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ment as First Magistrate of the nation, a man who has either smuggled or bought himself into office. Who, not having the confidence of the people, or feeling the Constitutional responsibility of his place, but attributing his elevation merely to accident, and conscious of the superior claims of others, will be without restraint upon his conduct, without that strong inducement to consult the wishes of the people, and to pursue the true interests of the nation, that the hope of popular applause, and the prospect of re-election, would offer. Such a state of things might be productive of incalculable evils; for it is, as I fear time will show, in the power of a President of the United States to bring this Government into contempt, and this country to disgrace, if not to ruin. Again, sir, if this amendment succeeds, if you designate the person voted for as President, and the person voted for as Vice President, you hold out an irresistible temptation to contracts and compromises among the larger States for these offices; it will be placing the choice of the two highest officers in the Government so completely in their power, that the five largest States, viz: Massachusetts, New York, Pennsylvania, Virginia, and North Carolina, may not only act in every previous arrangement relative to the appointment of these officers without the necessity of consulting the other twelve, but may totally exclude them from any participation in the election. The whole number of Electors, according to the present representation in Congress, will be one hundred and seventy-seven; these five States will have ninety-six of them, a clear majority of eight, and should they agree among themselves they can say absolutely who shall be the President. The other twelve States will not have even the humble privilege of choosing between their candidates; for their whole number of votes being but eighty-one given to the candidate for the Vice Presidency as President, would be but thrown away, since the other would still have his designated majority of eight for that place. Should it be said that such a coalition is improbable, I answer that my opinion is different, and it is enough for me that it is possible. Again, sir, counting only the States of Massachusetts, New York, Pennsylvania, and Virginia, these four will be found to be entitled to eighty-two Electors, wanting seven of a majority of the whole number; so that, leaving North Carolina among the smaller States, if they unite, and can by any species of influence, by promises of offices, bribery, or corruption, gain over to their interest but seven of the Electors belonging to the other States, they can in like manner appoint who they please. I might go on to show that lopping even Massachusetts from the list, the other four, viz: New York, Pennsylvania, Virginia, and North Carolina, could with very little difficulty effect the same object, since they are entitled to seventy-seven Electors. And now let me ask gentlemen representing the twelve smaller States, if they are prepared to yield up not only the high and honorable ground upon which the Constitution has placed them in the House of Representatives in case of an election for a President to be had there, but to vest in the five larger

States, or even in a smaller number of them, whenever they shall be pleased to exercise it, the exclusive power of appointing the President and Vice President of the United States?

Again, Mr. President, admitting these coalitions of the larger States, of which I have been speaking, for the purpose of appointing a President and Vice President by themselves, may none of them ever take place under this amendment, if adopted, notwithstanding its strong and natural tendency to such an effect, (and this is certainly admitting much more than gentlemen on the other side of the House could in argument have any right to demand of me,) yet there is one other which I am sure, in candor, they must grant me, is not only possible, but very probable, indeed, upon a subject of this kind—I mean the States of Virginia, North and South Carolina, Georgia, Kentucky, and Tennessee, together with the Territories upon the waters of the Mississippi, that are every day growing into States. And such is the rapidly increasing population of that country, that, after the next census, it will be forever in their power, upon this designating plan of election, to appoint the President and Vice President of the United States. The other ten Middle and Eastern States will have only to acquiesce in the choice, without, as I before observed, the power even of electing between the candidates, and much less the right of being consulted, in the first instance, as to the suitable and proper characters. Gentlemen will, I hope, do me the justice to believe that I mention these coalitions as likely to be entered into, only in relation to this particular object. I have no doubt but that these States are as well disposed, and as much attached to the Union, as any that belong to it; but who does not know the indissoluble bonds that will bind together the citizens of that Southern and Western country, in the pursuit of an object of this kind? Their similarity of manners, of habits, of laws, of civil institutions, of local interests, added to their native prejudices and ties of consanguinity, unite them inseparably, and make their views the same. Yet gentlemen, to my utter astonishment, tell us that this amendment is intended to preclude intrigue. Sir, no other measure could be adopted that would so effectually produce it. It will create ill blood between the smaller and the larger States—between one part of the Union and another. It will give rise to local prejudices, to envious territorial distinctions, to State schisms; and I should not wonder if, in the end, it were to be the means of plunging this country into a civil war, and of producing a separation.

As to the second and third alterations proposed in this resolution, that of enlarging the ground upon which the Vice President may be appointed by the Senate, by giving them authority to elect from the two highest, whenever no person has a majority of the whole number of votes, whereas now they can choose but in the case of two persons being upon a vote, and thus extending the powers of the Senate in the election of this officer, they would, at first view, seem to be mere matters of speculation, introduced for the sake of change only, or for the want of something else to employ

ourselves about. No inconvenience is even pretended to have been experienced under those provisions of the Constitution, as they now stand; yet we, in the plenitude of our wisdom, are about to recommend to the several State Legislatures an alteration of them; and so every successive Congress, which will no doubt in the same ratio as the present be more wise, more learned, more enlightened, and more patriotic, than their predecessors, will improve upon our example, until the Constitution shall be entirely regenerated. But the gentleman from Vermont (Mr. BRADLEY) now tells us—and I believe correctly—that these amendments, though not before contemplated, result necessarily from the introduction of the designating principle into the Constitution. Does not this show us, most clearly, the danger of meddling with the Constitution at all? Out of the single amendment proposed by the gentleman from New York, (Mr. CLINTON,) that of designating the person voted for as President, and the person voted for as Vice President, these two other very important changes have already grown—have forced themselves upon our consideration; and another of still greater importance immediately presents itself, which gentlemen on all sides seem to think must shortly follow—that of abolishing entirely the office of Vice President. Several honorable members have told us that their minds have long been made up on this subject; that they had long since seen the necessity of introducing this change in the mode of electing a President and Vice President; but never before saw its operation upon other parts of the Constitution, or that any other alterations must be the necessary consequence of its adoption. The honorable mover of this subject, from New York, who, according to his own account, had been two years maturing it in his mind, and who pressed the immediate adoption of it, with even more than his usual eloquence, had never before seen the bearing of his own resolution upon the Constitution, and was himself one of the first to vote for striking out part, and to second a motion of a gentleman from Vermont, (Mr. BRADLEY,) who I do not now see in his place, for a very important amendment to another part, of it. Indeed, sir, after all the deep deliberation bestowed upon it by the learned mover, the resolution, as at first introduced, provided very carefully for an impossible case, that in the nature of things could never happen—that of two candidates, upon the designating plan of election, having each a majority of the whole number of votes for President. Added to all this, sir, recollect the awkward and embarrassed situation of the Senate for a week past on this subject. Every step we have taken has involved us in new difficulties. We have several times been so completely lost in the mazes of our own amendments as to be under the necessity of adjourning, in order to have them printed, that we might see what we had done; and no sooner were they laid before us, than they directed our eyes to some other part of the Constitution where an unexpected injury had been sustained; and all this has arisen from the attempt to introduce the designating principle into the Con-

stitution. The favorers of the amendments have been alternately at variance with themselves and with each other, and sometimes so scattered that no two of them could agree; at other times, all were entirely lost. These are the most irresistible arguments, the strongest circumstances, to show how dangerous it is to attempt any alteration in the Constitution; and that, as has been urged on a former occasion, every comma has its meaning. You cannot strike out a word from one section, without inflicting a wound upon some other. So nicely has it been woven together, that no thread can be spared. Every principle it contains is a keystone, and no one of them can be removed without endangering the edifice. No man can tell how these amendments may operate—how they enfeeble and shackle other parts of the Constitution—or what other alterations they may render necessary. Look at this paper now, and recollect what it has been. At different times it has assumed different shapes—at one time proposing but one alteration; at another, four or five. Thus, one alteration will beget the necessity for another, and so we shall have to go on in this work *ad infinitum*, as the regular series of cause and effect. It may be said that this second amendment, so far as it goes to extend the powers of the Senate in the election of the Vice President, if adopted, may prove advantageous to the smaller States. I grant the possibility, but such advantage is too casual, too remote and unimportant, to induce me, as a Representative from one of the smaller States, to vote for any alteration in the Constitution. It is the true interest of the smaller States, especially, to preserve sacred and untouched the Constitution, and not be weakening it by alterations—expecting temporary advantages that may or may never arise; and which, if attained, would be little—would be less than insignificant—compared with the infinite importance of this instrument to those States, as it stands at present. Their independence, nay, their very existence, as States, hangs upon their preservation of it. They could never get such another, and they should be the last to tamper with it: when they do so, they risk their only stake. And now let me entreat gentlemen representing the twelve smaller States in the Senate (for it is here, and here only, they are felt in the Government) to weigh well their amendments before, by their affirmative votes, they do an act that may encroach upon the Constitutional rights of those States. I know well that, with some of the States, it is the highest source of mortification that the Constitution has placed the larger and smaller ones so nearly upon an equality in certain respects. The pride of some of the larger States will, for instance, never submit that, by any possible contingency, the State of Delaware, of Rhode Island, of Vermont, or New Hampshire, should have an equal voice with them in the choice of a President, as in case of an election by the House of Representatives. This is an evil that must be cured; and if alterations shall prove insufficient, a more effectual remedy, I fear, will be prescribed, the moment that the national pulse can be prepared for the application.

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So far, Mr. President, as human wisdom, or rather human frailty, might be permitted to judge of the future from the past and the present, I should think it no act of rashness to foretell that the next alteration attempted, will be to destroy the influence of the smaller States in this branch of the Legislature, not directly by expunging that provision of the Constitution which gives to each State an equal representation upon this floor, for that cannot be done with the consent of every State, but indirectly in conformity with the idea of the gentleman from Kentucky, (Mr. BRECKENRIDGE,) expressed the other day, by shortening the period for which Senators shall be elected, and which, in effect, will amount to the same thing. I know too well the weight and influence of the gentleman from Kentucky in this Government at present, to treat lightly what he says upon a subject of such magnitude, and must consider the charge of aristocracy, which he has been pleased to bring against the Senate as the denunciation of this body. Indeed, sir, I shall not be surprised to hear at the next session, that the people are prepared for the change, or even that some of the smaller States have recommended it, for such is at present the infatuated confidence of many of them in those who, I fear, are encompassing their ruin, that they seem to be constantly acting under instructions, and to have resigned both themselves and the Constitution to the guardianship of others. The gentleman from Virginia, (Mr. TAYLOR,) in order to lull our fears and divert our attention from the threat uttered by him to the smaller States, has very artfully called the alarm sounded on that subject by my honorable friend from New Jersey, (Mr. DAYTON,) at one time a stratagem, and at another an ambuscade; and asked, how he, as a general, could lay an ambuscade so unconcealed, so exposed to the enemy? Sir, we resort to no stratagems or ambuscades, our opposition is public, and our movements undisguised; and it was on the part of my friend only a prompt attack upon an ambuscade laid by the gentleman from Virginia himself, who has been entrusted with the chief command in this campaign, and which by him had been incautiously too soon uncovered; whilst gentler means succeed so well, threats are unnecessary, and might be dangerous. I was not a little surprised, Mr. President, to hear an honorable member from Maryland, (Mr. SMITH,) after reminding us that he belonged to a small State, come out on this occasion the mighty champion of the large ones, and whilst exhibiting himself to the greatest possible advantage in this new and enviable character, calling upon my friend from Massachusetts before me, (Mr. ADAMS,) to know why he, representing a large State, had been pleased to give himself any concern about the interests of the small States, intimating that such conduct concealed views not intended to be discovered, or, in the courtly language of the day, that it was stratagem; I wonder it had not been an ambuscade too. The honorable member from Virginia (Mr. TAYLOR) has prudently attempted to conceal again the ambuscade that had been so much annoyed

by the fire of my friend from New Jersey, endeavoring to soften down and explain away an expression used by him, and which, by a very natural construction, was considered a threat to the smaller States; the gentleman has indeed told us since that he intended no threat, and we are bound to accept his explanation. I mean not to scrutinize his meaning, especially after what the honorable member has said; but let us see how far the gentleman from Maryland was correct, when he declared that his friend from Virginia had used no language that could amount to a threat to the smaller States. If, sir, the language, I will say the menacing language of the gentleman from Virginia used on this subject, taken according to its common import, was not sufficient to rally and unite the smaller States, then the rancor of party has stifled more noble sentiments, we are a house divided against itself, and our day has passed.

After reproaching us with our weakness, the gentleman proclaimed in the language of triumph, (for I will give his very words as noted down by myself and others at the time,) "Let the smaller States beware how they rouse the resentment of the larger ones. What," asked he, "must become of them in such a collision?" And is this no threat? Sir, I answer, we might sink; but it is to avoid this very collision that I resist, with my feeble efforts, the present measure. We are now safely entrenched behind the barriers of the Constitution, and shall we ourselves demolish this great bulwark of our defence? Shall we not rather make our stand here, whilst the means of protection and resistance are within our power? Ambition is insatiable; the more we give up the more will be demanded of us, and every inch of ground we yield, the less tenable does the rest become. The honorable member from Virginia has told us, that the present mode of electing the President and Vice President was the road to Monarchy. I have often, sir, heard it intimated, that the Government of the United States had a tendency to Monarchy, a doctrine I could never accede to. (I mean as the Government is at present organized.) I speak and judge from things as they now present themselves; what effect these many speculative changes that are at present taking place in the Constitution may have, I know not, I presume not to foretell. But one thing was, years since, foretold and denied, and I now call it up to the recollection of gentlemen on the other side of the House, not to upbraid or offend them—but short-sighted man feels a kind of pleasure, (it is indeed though, Mr. President, on this occasion a melancholy one,) in having foretold truly the events of futurity. It was foretold that the Constitution would not suit those who were coming into power; that it was obnoxious to them, or to their leaders, which is in effect the same, and that the moment they should lay their hands upon it, if they could not get rid of it entirely under the pretence of amending and altering, they would fritter it away, until but the shadow, the empty shadow, should remain. How far the proceedings of this session, which is the first that the



present majority ever consisted of two-thirds of both branches of the Legislature, will go to justify this prediction, I will leave the world and the consciences of those honorable gentlemen on the other side of the House to judge. But such was the anxiety on this subject, that scarcely had we convened before the long wished for, hallowed work, was commenced, and the order of almost every day since has been a resolution to alter the Constitution. If, sir, the Constitution was suffered to remain as it is, I have no idea, from my acquaintance with the people of this country, and from the nature of our civil institutions, that any set of men, entrusted with the management of our public affairs, could ever, by a system of measures tending to such an end, succeed in the subversion of our rights and liberties. The people watch their servants with a jealous eye. If they err at all, it is on this side, and this is the safe side. No, Mr. President, what we have most to fear to our Government, and our liberties, must come from another and a very different source, from the licentiousness of democracy. This is what Republican Governments have forever to guard against; this is the vortex in which they are most likely to be swallowed up. God grant it may never be the case with ours, and I fear nothing else. By the licentiousness of democracy, I mean no imputation or offence to any portion of this community; I refer not to the political sentiments of any honorable gentlemen, or to the sentiments of their constituents—but to that wild infuriated spirit that we have seen in France, under the prostituted name of liberty, anarchizing the world, and rioting in the destruction of everything dear and valuable to society; and after having sported itself in all the wantonness of excess with the terrors, the crimes, the miseries and the murders of mankind, has seated a Corsican adventurer upon the high and dignified throne of the Bourbons—has riveted the manacles of tyranny upon a great, a brave, but a deluded people, and is now reclining in the shade of a military despotism.

Mr. COCKE.—The gentleman last up has, to be sure, in a well studied speech, as often times before, sounded the tocsin of alarm, and called in even the aid of prophecy to enforce his fears. But, sir, this Senate has been so much accustomed to these false alarms, that it appears to me the only danger we are in is that of going wide of the subject, and taking up our time with matters of imagination, instead of sticking to matter of fact. The object of this amendment to the Constitution is only one thing, one plain and simple principle, to enable the people to discriminate in the choice of their fellow-citizens for the offices of President and Vice President. Gentlemen tell us of large and small States, but is this amendment more in favor of the large than small; is this not such an amendment as will induce the large States to promote the election by the people? Is it not such an amendment as will prevent that corruption which so many gentlemen on all sides apprehend, if it goes into the House of Representatives? Where is the use of gentlemen sounding an alarm of danger which they do not

really believe themselves? Why will gentlemen talk of the danger of confusion—threaten us with it, when the whole confusion arises from the acts of gentlemen themselves? We have listened here with patience for weeks together to the arguments of gentlemen; they have had every fair opportunity to give their opinions, and it is now time to come to a conclusive vote. We hear nothing now but a repetition in fine dressed words of what we have heard from day to day for weeks; and for what purpose? to excite our fears, fears which it is our wish to guard against in reality.

Gentlemen tell us, first, they suppose the people may not elect a President and Vice President. Upon what ground do they pretend to believe this possible? Are the people so disgusted with their liberties; are they so little attentive to their rights—are they tired of a Government that every day makes them more happy? No, sir.

They then tell us that they do not wish that the election should go into the House of Representatives; and then that that House may not elect; and then our very honorable selves are recommended to make up all deficiencies! Do gentlemen doubt themselves, or can they compel Congress to pass such a law as they require for the election of a dictator, without a voice from the people? If gentlemen fear that the people will not elect, and that the other House will not elect, with equal reason they may fear that the other House would not make the law they wish for.

But it is said that some of us are governed by a fear that the people may not have a choice in the election of Vice President. If it will afford gentlemen any satisfaction, I tell them that it is my wish that the people should elect the Vice President as well as the President. I say, I do not understand the principle of minorities governing majorities. The law of the minority is not the law of the Constitution, and it is not the law for me. How gentlemen can pretend to advocate the Constitution, and talk of the minority giving law, is to me very surprising; they say too the Constitution is very sacred to them, and it should not be altered; so it is too, every word, sacred to me; but among its most sacred parts, I find that the Constitution provides for its own alteration and amendment; not indeed by a minority, but by a large majority in both Houses, and by a much larger majority of States. Gentlemen are not willing that a majority should elect a Vice President, but they are not willing that three-fourths of the States should amend the Constitution; they pass by the open door on the right hand to get in at a private passage.

Mr. WHITE—to order—the gentleman is not surely using any arguments of mine; they are of his own making.

Mr. COCKE.—The gentleman from Delaware thinks the minority should govern—that is his argument, however he may disguise it. I think the majority should govern; I like to speak out—I do not wish to have a man put upon us contrary to our wishes. What! shall the majority abandon the right of choosing a man whose opinions are conformable to theirs, and suffer a man of princi-

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ples hostile to theirs to be put upon them? I am, sir, for a government of the people, whether well born or born by accident; I am for a government not of checks and balances, but one that will not suffer a bad check upon good principles.

But we are once more told of a Gallic Cæsar, and our fears are to be provoked this way too—but this more than the rest of alarms will not do; we fear no Cæsar, foreign or domestic. We have indeed seen the day when we were near getting a President not of our choice; but because we have escaped from the danger and the intrigue of that day, are we to take no precaution against such measures again. It is to guard against such danger we wish to amend this Constitution. But gentlemen tell us we have not given it a fair trial. I think we have, and found it defective. Here we have been a week and upwards, laboring and bewildered in every kind of discussion, and what have we come to? exactly where we set out. Not one of us has altered our opinions—we have argued and listened and done nothing. Why? Because gentlemen have been attempting impossibilities; there is no such thing as moving either side from their principles. One side thinks the minority should give the law; we think with the Constitution the right is in the majority, and we will submit to no other law. I am for the amendment, and for a discrimination.

Mr. PLUMER said that he had generally contented himself with expressing his opinion by a silent vote, but on a question which affected the rights of the smaller States, (one of which he had the honor to represent,) he requested the indulgence of the Senate to a few observations.

He said the Constitution had provided only two methods for obtaining amendments, and both are granted with great caution. If two-thirds of the several State Legislatures apply, Congress shall call a convention who are to propose amendments, which, when ratified by the conventions of three-fourths of the States, will be valid. If this mode is adopted, Congress have nothing to do but to ascertain the fact, whether the necessary number of States require a convention. If they do, a convention must be called. The State Legislatures are only to apply for a convention. They can neither propose nor decide the amendments.

The other mode is, if two-thirds of both Houses of Congress deem it necessary to propose amendments, and three-fourths of the State Legislatures ratify them, they are valid. This is the present mode. The State Legislatures have nothing to do till after Congress has proposed the amendments, and then it is their exclusive province either to ratify or reject them. But they have no authority to direct or even request Congress to propose particular amendments for themselves to ratify. Instructions on this subject are therefore improper. It is an assumption of power, not the exercise of a right. It is an attempt to create an undue influence over Congress. It is prejudging the question before it is proposed by the only authority that has the Constitutional right to move it. If these instructions are obligatory, our votes must be governed, not by the convictions of our own judg-

ments, or the propriety and fitness of the measure, but by the mandates of other Legislatures. This would destroy one of the checks that the Constitution has provided against innovation. State Legislatures may, on some subjects, instruct their Senators; but on this, their instructions ought not to influence, much less bind us, to propose amendments, unless we ourselves deem them necessary.

The Senate consists of two members from each State; and in this case, the concurrence of two-thirds of all the Senate are necessary. A majority of the Senate constitutes a quorum to do business, but that quorum is a majority of all the Senators that all the States are entitled to elect. This applies with equal force to the term "two-thirds of the Senate." But in cases where from necessity a speedy decision is requisite, and where the concurrence of two-thirds is required, the Constitution is explicit in confining that two-thirds to the members present; as in cases of treaties and impeachments; and also a fifth of the members present requesting the yeas and nays. If amendments can be Constitutionally proposed by two-thirds of the Senate present, it will follow that twelve Senators, when only a quorum is present, may propose them against the will of twenty-two Senators.

Mr. P. observed, that he had said the Constitution had provided for amendments, but with great caution. In some cases, they cannot, in the nature of things, be ever made. For instance, the equal representation of each State in the Senate cannot be abridged without its own consent. Other parts of the Constitution cannot be amended till after a certain period, to wit: those relating to slaves, and the apportionment of direct taxes. The United States are bound to guarantee to each State a Republican form of government, and to protect each against invasion. Can these stipulations be expunged? They cannot. Because a change here would introduce new principles into the Constitution. That instrument is a compact formed by each individual State with the United States, and it may be difficult to ascertain how far a new principle, introduced into the Constitution, would operate as releasing the dissenting States from the compact. Nothing but imperious necessity can justify the introduction of new principles. The specious term of "amendments," will be falsified by applying it to forms and proceedings, without extending it to the principles and substance of the Constitution.

In an elective government much depends upon public opinion. It is important that the Constitution should be stable and permanent as the standard to direct that opinion. A Constitution frequently changed, cannot command the esteem or veneration of any people. The proposing of amendments has a tendency to infuse a spirit of fickleness and love of novelty into the public mind. One change prepares the way for another. How many constitutions have there, within a few years, been established in France, each of which was thought better than the one that preceded it? Have not their frequent changes ren-

dered everything dear to man so precarious and uncertain, as to induce them to establish a military despotism, in preference to a free Government? Their fate should serve as a solemn warning to us not to change our Constitution, unless compelled by absolute necessity.

It has been said, the people require this amendment; but of this fact we have no evidence.

This amendment affects the relative interest and importance of the smaller States. The Constitution requires the Electors of each State to vote for two men, one of whom to be President of the United States. This affords a degree of security to the small States against the views and ambition of the large States. It gives them weight and influence in the choice. By destroying this complex mode of choice, and introducing the simple principle of designation, the large States can with more ease elect their candidate. This amendment will enable the Electors from four States and a half to choose a President, against the will of the remaining twelve States and a half. Can such a change tend to conciliate and strengthen the Union?

This amendment has a tendency to render the Vice President less respectable. He will be voted for not as President of the United States, but as President of the Senate, elected to preside over forms in this House. In electing a subordinate officer the Electors will not require those qualifications requisite for supreme command. The office of Vice President will be a sinecure. It will be brought to market and exposed to sale to procure votes for the President. Will the ambitious, aspiring candidate for the Presidency, will his friends and favorites promote the election of a man of talents, probity, and popularity for Vice President, and who may prove his rival? No! They will seek a man of moderate talents, whose ambition is bounded by that office, and whose influence will aid them in electing the President. This mode of election is calculated to increase corruption, promote intrigue, and aid inordinate ambition. The Vice President will be selected from some of the large States; he will have a casting vote in this House; and feeble indeed must his talents be, if his influence will not be equal to that of a member. This will, in fact, be giving to that State a third Senator.

In the Southern States the blacks are considered as property, and the States in which they live are thereby entitled to eighteen additional Electors and Representatives. A number equal to all the Electors and Representatives that four States and a half are entitled to elect. Will you, by this amendment, lessen the weight and influence of the Eastern States in the election of your first officers, and still retain this unequal article in your Constitution? Shall property in one part of the Union give an increase of Electors, and be wholly excluded in other States? Can this be right? Will it strengthen the Union?

This amendment is designed to prevent the evils that occurred at the last Presidential election. That was an extraordinary event; it was a casualty that can seldom happen. Two men had

a majority of all the electoral votes, but neither of them was chosen. But what was the consequence? Why, the House of Representatives in a peaceable manner completed the choice, and that, fourteen days before the President could enter upon the duties of his office. It may be desirable to prevent the choice being carried into the House of Representatives, but this amendment will not do it. It expressly provides for such an event. And if two or more candidates of different parties are carried there, (and if the state of parties should be nearly equal it will happen,) the House must then decide between candidates of different parties.

Mr. P. said that the amendment appeared calculated to give power to the strong; enfeeble and weaken the small States; to lessen the respectability of the Vice President, and not to prevent the evil it was designed to remedy; and therefore that he should vote against it.

Mr. JACKSON.—The gentleman last up and another who had preceded him (Messrs. WHITE and PLEMER) had taken a ground which he did not expect to hear in the elective Senate of a free people. They questioned not only the propriety of the present amendment but of all amendments. This he considered as of no great consequence, but he thought it merited notice, because the dislike of amendments is expressed by gentlemen who wish to have it believed that they are more strongly attached to the Constitution than others; and though the Constitution which they so ardently admire provides expressly for its own amendment. Gentlemen liked the Constitution, but they disliked all amendment, forgetting that as long as human society exists, it must be subject to human frailties; nothing that comes from the head of man can be perfect; and though we may fail to correct imperfections in human institutions, it is our duty to persevere and employ every means which time and experience point out to us, to render our state as secure from evil as possible.

Why is it that gentlemen constantly refer us to France? Do gentlemen, by referring us to that unfortunate country, expect to impress a belief on us that there is any resemblance of situation or circumstances between the two countries?—or are they so blind as not to see that the state of liberty in that country should be a most earnest motive with us to provide such amendments to our Constitution as may secure us against the danger of usurpation? Our situation has never resembled that of France, but during our Revolution. That nation had not the opportunity of sitting down after the overthrow of her enemies, and forming a free constitution in peace, as we had. It was in the conflicts of faction excited by foreign enemies, that the state of France was changed; but she had been always different from us. France was always one and indivisible. In that country we have seen the conflicts of faction, and the frantic zeal of adherents convulsing the nation; have we not had any similar transactions during our own Revolution? Were there no factions even in our Revolutionary councils? Have

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we had no ambitious men since seeking to destroy our liberties? Are there none now who would, if they could hope for success, attempt it? Thanks to our better fortune, though we have encountered many a storm, and though bad pilots had nearly foundered us, the vessel of State is still safe, and her liberties are not gone by the board. Thanks to the sound sense of the people, unbounded thanks to the able pilot who now holds the helm, we have escaped a wreck, and are now more prosperous and happy than at any former period. The exalted character who is now at the head of affairs defies the shallow railings and little-minded attacks of his enemies; his character stands too high above their reach to be affected by the insects that crawl beneath him; his conduct is above their censure, and his good deeds have rendered him dear to his fellow-citizens. His countrymen had fixed their eyes upon him, but arts had been employed to frustrate their wishes. The effect, however, had been fortunate; and if it had not been for accidental circumstances, there never would have been room for the alarming contest which took place in the House of Representatives. He had the best reason to know, that it never was intended to make any other man President. He was at that period at the head of the government of Georgia, and happened to be present when a letter was received, directed to some of the Electors, the contents of which were communicated to him. The Electors of Georgia had determined to give two of their votes to Governor Clinton. The letter was from an influential gentleman in South Carolina, pressing them to give all their votes equal, as it was alleged that if they were not given, a character not acceptable to the people would be Vice President. It was therefore to secure for Mr. Burr the Vice Presidency that those two votes were given, which would not have been given if the least suspicion had been entertained of what subsequently happened.

But it is asserted that there may be a coalition of the large States, and thus this amendment is intended to depress the small States. These things gentlemen said only because they could say nothing to the purpose. Will any gentleman say that Massachusetts and Virginia have united? Look to their representatives, and ask them if such is the case. Will those States be ever likely to coalesce in party views? Never; there is one point only upon which they could be united—the defence of a common country. Tear a leaf from the Constitution and they will rally together, and the small States will cling around them.

But why is this jealousy of Virginia excited—when and where has she domineered over her sister States? She is as incapable of the attempt as of submission to an insulting and insidious domination. From whence do you derive your Constitution? From Virginia. When your small States refused to submit to a paltry five per cent. impost on foreign goods, what was then your situation? Whostood forward? Virginia; she saw the situation of their common country, she saw the glories of the Revolution and the liberties of the people endangered by the blind and selfish policy of the

small States; and she with her accustomed sagacity found out the remedy, by proposing a convention, in which your Constitution originated.

To whom are you indebted for the Revolution! To the brave State of Massachusetts, the gratitude of America is due for her valor, her constancy, and her sufferings. But it is to Virginia you owe the instructive spirit and the manful determination of the first resolve and first determination to be free, sovereign, and independent. Why then is this jealousy attempted? Is it because she had given us Washington in our Revolution, and Jefferson now? Is it to the superiority of her patriots and statesmen we must attribute this unworthy envy? It has been asked why we do not resort to a convention, if we wish to amend the Constitution? For his part he was averse to calling conventions, but when no other remedy was provided; bodies of that description are invested with boundless power; the physical and political powers of the State are in their hands; and they are therefore more exposed to the zeal and the intrigues of the ardent and ambitious. The Constitution has provided means more simple, and fully adequate; and, even though we might err in our determinations, the check of three-fourths of the Legislatures will be an adequate protection against the invasion of the public rights.

We are told we shall give up everything if we pass this amendment. Shall we, really, have more or less power than before; or, has there been any coalition which is under an apprehension of losing everything by its passage?

We are told that the candidates, on a former occasion, had an equal claim and equal pretensions to the office of President. He did not wish to make comparisons; but he could not but recollect that the attempt to supersede one of the candidates, and to place the other in his station, had endangered the Government; and, from what he had already said, he believed it would not be questioned that, so far as concerned Georgia, it never was intended to give them an equal chance; and small and obscure as that little corner called Georgia is, had the measure been pursued to consummation, which had been attempted on that occasion, she would have flown to arms, and South Carolina would have joined her to do justice to the interest of the nation.

The gentleman from Delaware (Mr. WHITE) had talked of intrigues. The days of intrigue are past, they are gone, and the intriguers with them; the people have got the man of their choice; Mr. Jefferson has no occasion for intrigue were he disposed to employ it; the Administration has none; the policy of the Executive is above all intrigues; the affections of the people are his, and justly, for, under his Administration, they are the happiest people that ever existed. Never will there be a Federal President or Vice President again elected, to the end of time; if there should ever be any other chosen out of the line of the present politics, it must be from some new sect, which, assuming the principles of the republicans, may succeed by carrying their zeal for liberty farther.

He did not wish to discuss largely the allusion of the gentleman to a fifth wheel. Were the subject to be confined to our own country, he should go fully into that subject; he wished not to afford any handle for the disrespect of foreign nations towards any part of our institutions. But he would spurn the insinuations of those who would suggest that we shall not choose a man of integrity for the office of Vice President. The people, sir, will solicit a man worthy of their confidence, and honored abroad and at home.

The amendment to the Constitution, he considered necessary and salutary; and he was in hopes, when gentlemen saw the benefits, they would come forward and thank us for it.

Mr. TRACY hoped the Senate would now adjourn; on the question being put, it was lost.

The motion of Mr. TRACY for an adjournment having been negatived, he then addressed the President.

Mr. TRACY moved an adjournment, because he thought a more full and fair discussion was due to this important question than could be had after this late hour.

The merits have never, until now, been before us, for, although considerable time has been consumed in debate, it has chiefly been directed to the subordinate amendments, and not to the main resolution. But, since the Senate have refused to adjourn, I will now offer some observations on the merits; in doing which, I will study brevity, as much as the importance of the subject will permit.

I shall attempt to prove, sir, that the resolution before us contains principles which have a manifest tendency to deprive the small States of an important right, secured to them by a solemn and Constitutional compact, and to vest an overwhelming power in the great States. And, further, I shall attempt to show that, in many other points, the resolution is objectionable, and, for a variety of causes, ought not to be adopted.

As I shall be obliged, in delineating the main features of this resolution, to mention the great States in the Union as objects of jealousy, I wish it to be understood that no special stigma is intended. "Man is man," was the maxim expressed in an early part of this debate, by the gentleman from South Carolina, (Mr. BUTLER,) and in application to the subject of Government, the maxim is worthy to be written in letters of gold. Yes, sir, "man is man," and the melancholy truth that he is always imperfect and frequently wicked, induces us to fear his power, and guard against his rapacity, by the establishment and preservation of laws, and well-regulated constitutions of Government. Man, when connected with very many of his fellow men, in a great State, derives power from the circumstance of this numerous combination; and from every circumstance which clothes him with additional power, he will generally derive some additional force to his passions.

Having premised this, I shall not deem it requisite to make any apology, when I attempt to excite the attention, the vigilance, and even the jealousy of the small, in reference to the conduct of the great States. The caution is meant to ap-

ply against the imperfections and passions of man, generally, and not against any State, or description of men, particularly.

It may be proper, in this place, to explain my meaning, when I make use of the words "small" and "great," as applicable to States.

Massachusetts has been usually called a great State; but, in respect to all the operations of this resolution, she must, I think, be ranked among the small States. The district of Maine is increasing rapidly, and must, in the nature of things, soon become a State. To which event, its location, being divided from what was the ancient Colony of Massachusetts, by the intervention of New Hampshire, will very much contribute. I believe there is a Legislative provision of some years' standing, authorizing a division at the option of Maine. When this event shall occur, Massachusetts, although, in comparison with Connecticut and Rhode Island, will not be a small State; yet, in comparison with many others, must be so considered. I think myself justifiable, then, for my present purposes, in calling Maine, New Hampshire, Massachusetts, Rhode Island, Connecticut, Vermont, New Jersey, Delaware, Maryland, and South Carolina, small States. They are limited in point of territory, and cannot reasonably expect any great increase of population for many years, not, indeed, until the other States shall become so populous as to discourage emigration, with agricultural views; which may retain the population of the small States as seamen or manufacturers. This event, if it ever arrives, must be distant. A possible exception only may exist in favor of Maine; but, when we consider its climate, and a variety of other circumstances, it is believed to form no solid exception to this statement.

By the same rule of deciding, the residue of the States must be called great; for although Georgia and several others are not sufficiently populous, at this time, to be considered relatively great States, yet their prospect of increase, with other circumstances, fairly bring them within the description, in respect to the operation of the measure now under consideration.

It will be recollected that, in the various turns which the debate has taken, gentlemen have repeatedly said that the Constitution was formed for the people; that the good of the whole was its object; that nothing was discernible in it like a contest of States, nothing like jealousy of small States against the great; and although such distinctions and jealousies might have existed under the first Confederation, yet they could have no existence under the last. And one gentleman, (Mr. SMITH, of Maryland,) has said that he has been a member of this Government ten years, and has heard nothing of great and small States, as in the least affecting the operations of Government, or the feelings of those who administer it.

Propriety, therefore, requires that we attentively examine the Constitution itself, not only to obtain correct ideas upon these observations, so repeatedly urged, but to place in the proper light the operations and effects of the resolution in de-

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bate. If we attend to the Constitution, we shall immediately find evident marks of concession and compromise, and that the parties to these concessions were the great and small States. And the members of the Convention who formed the instrument have, in private information and public communications, united in the declaration, that the Constitution was the result of concession and compromise between the great and small States. In this examination of the Constitution it will be impossible to keep out of view our political relations under the first Confederation. We primarily united upon the footing of complete State equality—each State had one, and no State had more than one vote in the Federal Council or Congress. With such a Confederation we successfully waged war, and became an independent nation. When we were relieved from the pressure of war, that Confederation, both in structure and power, was found inadequate to the purposes for which it was established. Under these circumstances, the States, by their Convention, entered into a new agreement, upon principles better adapted to promote their mutual security and happiness. But this last agreement, or Constitution, under which we are now united, was manifestly carved out of the first Confederation. The small States adhered tenaciously to the principles of State equality; and gave up only a part of that federative principle, complete State equality, and that, with evident caution and reluctance. To this federative principle they were attached by habit; and their attachment was sanctioned and corroborated by the example of most if not all the ancient and the modern Confederacies. And when the great States claimed a weight in the Councils of the nation proportionate to their numbers and wealth, the novelty of the claim, as well as its obvious tendency to reduce the sovereignty of the small States, must have produced serious obstacles to its admission. Hence it is, that we find in the Constitution but one entire departure from the Federal principle. The House of Representatives is established upon the popular principle, and given to numbers and wealth, or to the great States, which, in this view of the subject, are synonymous. It was thought, by the Convention, that a consolidation of the States into one simple Republic, would be improper. And the local feelings and jealousies of all, but more especially of the small States, rendered a consolidation impracticable.

The Senate, who have the power of a legislative check upon the House of Representatives, and many other extensive and important powers, is preserved as an entire federative feature of Government as it was enjoyed by the small States, under the first Confederacy.

In the article which obliges the Electors of President to vote for one person not an inhabitant of the same State with themselves, is discovered State jealousy. In the majorities required for many purposes by the Constitution, although there were other motives for the regulations, yet the jealousy of the small States is clearly discernible. Indeed, sir, if we peruse the Constitu-

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tion with attention, we shall find the small States are perpetually guarding the federative principle, that is, State equality. And this, in every part of it, except in the choice of the House of Representatives, and in their ordinary legislative proceedings. They go so far as to prohibit any amendment which may affect the equality of States in the Senate.

This is guarding against almost an impossibility, because the Senators of small States must be criminally remiss in their attendance, and the Legislatures extremely off their guard, if they permit such alterations, which aim at their own existence. But, lest some accident, some unaccountable blindness or perfidy should put in jeopardy the federative principle in the Senate, they totally and forever prohibit all attempts at such a measure. In the choice of President, the mutual caution and concession of the great and small States, is, if possible, more conspicuous than in any other part of the Constitution.

He is to be chosen by Electors appointed as the State Legislatures shall direct, not according to numbers entirely, but adding two Electors in each State as representatives of State sovereignty. Thus Delaware obtains three votes for President, whereas she could have but one in right of numbers. Yet, mixed as this mode of choice is, with both popular and federative principles, we see the small States watching its motions and circumscribing it to one attempt only, and, on failure of an Electoral choice, they instantly seize upon the right of a Federal election, and select from the candidates a President by States and not by numbers. In confirmation of my assertion, that this part of the Constitution was peculiarly the effect of compromise between the great and small States, permit me to quote an authority which will certainly have great weight, not only in the Senate, but through the Union, I mean that of the present Secretary of State, (Mr. Madison,) who was a leading member of the Federal Convention who formed, and of the Virginia Convention who adopted the Constitution.

In the Debates of the Virginia Convention, volume 3, page 77, Mr. Madison says, speaking of the mode of electing the President:

“As to the eventual voting by States it has my approbation. The lesser States and some larger States will be generally pleased by that mode. The Deputies from the small States argued, and there is some force in their reasoning, that, when the people voted, the large States evidently had the advantage over the rest, and, without varying the mode, the interests of the little States might be neglected or sacrificed. Here is a compromise. For in the eventual election, the small States will have the advantage.”

After this view of the Constitution, let us inquire, what is the direct object of the proposed alteration in the choice of President?

To render more practicable and certain the choice by Electors—and for this reason: that the people at large, or in other words, that the great States, ought to have more weight and influence in the choice. That it should be brought nearer to the popular and carried further from the fede-

rative principle. This claim we find was made at the formation of the Constitution. The great States naturally wished for a popular choice of First Magistrate. This mode was sanctioned by the example of many of the States in the choice of Governor. The small States claimed a choice on the federative principle, by the Legislatures, and to vote by States; analogies and examples were not wanting to sanction this mode of election. A consideration of the weight and influence of a President of this Union, must have multiplied the difficulties of agreeing upon the mode of choice. But as I have before said, by mutual concession, they agreed upon the present mode, combining both principles and dividing between the two parties, thus mutually jealous, as they could, this important privilege of electing a Chief Magistrate.

This mode then became established, and the right of the small States to elect upon the federative principle, or by States, in case of contingency of electoral failure of choice, cannot with reason and fairness be taken from them, without their consent, and on a full understanding of its operation; since it was meant to be secured to them by the Constitution, and was one of the terms upon which they became members of the present Confederacy; and for which privilege they gave an equivalent to the great States, in sacrificing so much of the federative principle, or State equality.

The Constitution is nicely balanced, with the federative and popular principles; the Senate are the guardians of the former, and the House of Representatives of the latter; and any attempts to destroy this balance, under whatever specious names or pretences they may be presented, should be watched with a jealous eye. Perhaps a fair definition of the Constitutional powers of amending is, that you may upon experiment so modify the Constitution in its practice and operation, as to give it, upon its own principles, a more complete effect. But this is an attack upon a fundamental principle established after a long deliberation, and by mutual concession, a principle of essential importance to the instrument itself, and an attempt to wrest from the small States a vested right, and, by it, to increase the power and influence of the large States. I shall not pretend, sir, that the parties to this Constitutional compact cannot alter its original essential principles, and that such alterations may not be effected under the name of amendment; but, let a proposal of that kind come forward in its own proper and undisguised shape; let it be fairly stated to Congress, to the State Legislatures, to the people at large, that the intention is to change an important federative feature in the Constitution, which change in itself and all its consequences, will tend to a consolidation of this Union into a simple Republic; let it be fairly stated, that the small States have too much agency in the important article of electing a Chief Magistrate, and that the great States claim the choice; and we shall then have a fair decision. If the Senators of the small States, and if their State Legislatures, will then quietly part with the right they have, no person can reasonably complain.

Nothing can be more obvious, than the intention of the plan adopted by our Constitution for choosing a President. The Electors are to nominate two persons, of whom they cannot know which will be President; this circumstance not only induces them to select both from the best men; but gives a direct advantage into the hands of the small States even in the electoral choice. For they can always select from the two candidates set up by the Electors of large States, by throwing their votes upon their favorite, and of course giving him a majority; or, if the Electors of the large States should, to prevent this effect, scatter their votes, for one candidate, then the Electors of the small States would have it in their power to elect a Vice President. So that, in any event, the small States will have a considerable agency in the election. But if the discriminating or designating principle is carried, as contained in this resolution, the whole, or nearly the whole right and agency of the small States, in the electoral choice of Chief Magistrate, is destroyed, and their chance of obtaining a federative choice by States if not destroyed, is very much diminished.

For this identical purpose is the principle of electoral discrimination and designation introduced into the resolution before you; for the same purpose is the number of candidates reduced from five to three, from whom the House of Representatives may elect, in case of electoral failure of choice; that is, to destroy or diminish the agency of the small States in the choice of President.

For what purpose else are we perpetually told, and from all parts of the Senate, that the public will is opposed by the present mode, and public will cannot be gratified, without the introduction of the discriminating principle?

By the public will thus mentioned, the gentlemen mean the will of a popular majority, or, the will of the great States, which in this case, I repeat it, are the same. How is it possible for the gentlemen to increase the chances of gratifying this description of the public will, without decreasing the agency of the small States?

The whole power of election is now vested in the two parties; numbers and States, or, great and small States; and it is demonstration itself, if you increase the power of the one, in just such proportion you diminish that of the other. Do the gentlemen suppose that the public will, when Constitutionally expressed by a majority of States, in pursuance of the federative principle of our Government, is of less validity, or less binding upon the community at large, than the public will expressed by a popular majority? The framers of your Constitution, the people who adopted it, meant, that the public will, in the choice of a President, should be expressed by Electors, if they could agree, and if not, the public will should be expressed by a majority of the States, acting in their federative capacity, and that in both cases the expression of the public will should be equally binding.

It is pretended that the public will can never, properly or Constitutionally, be expressed by a majority of numbers of the people, or of the



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House of Representatives. This may be a pleasing doctrine enough to great States; but it is certainly incorrect. Our Constitution has given the expression of the public will, in a variety of instances, other than that of the choice of President, into very different hands from either House of Representatives or the people at large. The President and Senate, and in many cases the President alone, can express the public will, in appointments of high trust and responsibility, and it cannot be forgotten that the President sometimes expresses the public will by removals. Treaties, highly important expressions of the public will, are made by the President and Senate; and they are the supreme law of the land. In the several States, many great offices are filled, and even the Chief Magistracy, by various modes of election. The public will is sometimes expressed by pluralities instead of majorities, sometimes by both branches of the Legislatures, and sometimes by one, and in certain contingencies, elections are settled by lot. The people have adopted constitutions containing such regulations, and experience has proved that they are well calculated to preserve their liberties and promote their happiness. From what good or even pardonable motive, then, can it be urged that the present mode of electing our President has a tendency to counteract the public will? Do gentlemen intend to destroy every federal feature in this Constitution? And is this resolution a precursor to a complete consolidation of the Union, and to the establishment of a simple Republic?—Or will it suffice to break down every federative feature which secures to one portion of the Union, to the small States, their rights?

I am not without my fears, Mr. President, that this is but the beginning of evils, and that this Constitution, the bulwark of the feeble members of the Confederacy; the protection of the weak against the strong; the security of the small against the great; the last, best hope of man, with a view to stability in a free Government, and to the preservation of liberty in a Republic; is destined to undergo changes, and suffer innovations, till there be no residue worth preserving, and nothing left which ambition will condescend to overturn.

Time will not permit me to dwell any longer on this part of my argument. But I am deceived, sir, if the view I have now taken of the Constitution does not show most obviously, that in its formation there was a struggle between the great and small States, with respect to many of its principles and leading features; and that the participation in the election of the Chief Magistrate, clearly secured to them by the Constitution, will receive a deadly blow by the adoption of the proposed amendment.

It can be no contradiction to my ideas upon the subject, if we have heard nothing of State conflicts, in the administration of this Government. The great States have never, till now, directly attempted to violate the sanctuary of the small, and despoil them of their rights; had this been earlier attempted, we should have heard and seen the same jealousy awakened, and the same opposition exerted.

The conflict could happen in no other way than by an attack from the large States. We had neither the desire nor ability to injure them, and we now ask no favors, but their permission to enjoy, in peace and safety, the rights conceded to us by themselves, and secured by a solemn Constitutional compact.

We have been told by a gentleman from Virginia, that it would be impolitic in us to rouse the great States. I shall, at present, take no further notice of this warning, given to us, no doubt, in the full exercise of benevolence, but to request the small States to preserve it in constant recollection. It may induce them not hastily to part with Constitutional security.

There are some other points of light, in which I wish to place the subject before us.

The Constitution is of recent date; it was formed by the mutual concessions of conflicting parties, and balanced with a view to the securing of all. Experience alone can test its utility, and time and practice discover its faults. It is a sound position that you should never attempt an alteration in an instrument so complicated, and calculated to serve so many various and opposite interests, without being able, by the test of experiment, to discern clearly the necessity of alteration, and without a moral certainty that the change shall not only remove an existing evil, but that it shall not produce any itself. The article in the Constitution establishing the mode of electing a Chief Magistrate, and which is now proposed to be altered, was undoubtedly one of the most difficult parts of the whole at its formation. I am convinced, sir, that the public mind is not sufficiently impressed with the difficulty of adopting, not only an unexceptionable but even a tolerable and practicable mode of electing a Chief Magistrate, possessing such important and extensive powers as are Constitutionally vested in the President of the United States. An attempt to detail the number and magnitude of his powers, to this Senate, would be impertinent. But it must and will be acknowledged by all, that the President is vested with powers vastly extensive and important, and that he will bring with him into the Government more or less of State politics and State prejudices, and these facts, to which may be added the probability that he will be taken from a large State, must have increased the difficulties of the Convention in fixing on a mode of choice.

How often have contests, wars, and bloodshed, the destruction of confederacies, of liberty, and of vast portions of the human race, arisen from the election of Chief Magistrates? When we consider that the powers vested in the President of this Union are sufficiently important to excite the avarice and ambition of the human heart, its two most active principles, to gain possession of the office; when we consider the difference of sentiment, habit, and interest, in this country; State pride and State jealousy, which could never be laid asleep; the difficulties of fixing upon a proper mode of election must be also infinitely multiplied. And yet this article is now selected for alteration. All the amendments which have been hitherto

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adopted, went to some general explanation upon very general principles, not changing but rather expounding the Constitution.

This, as I have before said, is taking up the most difficult and most important article in the Constitution, both in relation to rights and principles. But it is said that experience has shown us the necessity of an alteration in this article; that an evil has been found in practice to grow out of the Constitutional provision, which calls imperiously for remedy.

At the last election of President two persons had an equal number of votes, and that number was a majority of the votes of all the Electors appointed, which circumstance gave the House of Representatives a Constitutional right to select one of them for President. In exercising this Constitutional right, they voted by States, and there was at first a division, no choice being made until the sixth day; when an election was effected, of the very man whom the great States, and the advocates of this resolution, wished.

It ought to be noted here, that although they voted by States, yet it happened, in this division, that a majority, in point of numbers, voted for the person as President who eventually became Vice President. As to intrigue, by either of the candidates, or by their friends, I know of none; the sentiments and conduct of the Vice President, as published, were perfectly fair and honorable, containing a declaration of his wishes not to stand in the way of the other candidate.

After the view of the Constitution which we have taken, and comparing this fact, or set of facts, with the provisions for electing a President, we shall really be at a loss to find out the mighty evil, which the experience of this election has discovered, and which is said to call so imperiously for a remedy. But the advocates of this resolution have had the goodness to put their finger on the spot. They say, that in the certificates of the Electors, Mr. Jefferson's name stood first; this is called a sort of record testimony, and, in addition, some, if not all the Electors said they meant to elect Mr. Jefferson President, and Mr. Burr Vice President; and this is declared to be the public will, expressed by the Constitutional organ, the Electors. Notwithstanding this expression of the public will, say the gentlemen, a large portion of the House of Representatives withstood and opposed the public will for the space of six days, and wilfully voted for the man to be President, who, they knew by the evidence just mentioned, was meant to be Vice President. One gentleman (Mr. WRIGHT) has said, that if he had been a member of that House, possessing such sentiments upon the subject as he now does, such voting would in him have amounted to the crime of perjury, or words to the same effect. I mean to quote his ideas, as expressed, and believe I have given nearly his very words. And, it is added, that thus there was imminent danger of a person being imposed upon the United States as Chief Magistrate, who was not originally intended for that high office, and that civil war must have been the consequence; and, as is common in such

cases, the picture is filled—in the back ground, with brother raising his murderous hand against brother, father against son, and with an afflicting group of *et ceteras*; and to avoid a repetition of this tremendous crisis, as it is called, the present resolution, it is said, must pass.

Let this statement of facts be kept in view while we examine the duties assigned by the Constitution to the several agents concerned. The duty of the Electors is precisely defined. They are each to bring forward two candidates fully qualified for President, because they cannot know at the time of giving their ballots upon which the choice will fall. The circumstance of two having a majority, and both being equal in number of votes, is an expression of the public will, through the only Constitutional organ, by which, in this case, the public will can be expressed, that both had the requisite qualifications. The public will, then, was in this instance clearly and unequivocally expressed, by a Constitutional and numerous majority, that both candidates were worthy of the office; but here the expression of the public will ceased, and which of these two should be President was now to be decided by another Constitutional organ, that is, by the House of Representatives, voting by States.

The framers of the Constitution so intended, and the people who adopted it have so ordained, that their will in this case should be expressed by a majority of the States, acting by their representation in the House of Representatives. The right of selection is a right complete in itself, to be exercised by these second Electors, uninfluenced by any extraneous consideration, and governed only by their own sense of propriety and rectitude. The opinion of the people had been expressed by the Electors, but it only reached a certain point, and then was totally silent as to which of the two should be President, and their sense upon this point could only be collected through their Constitutional organ, the House of Representatives, voting by States. Any interference of the first Electors, or of an individual or individuals, must be informal and improper. The advice of sensible and candid men, as in every other case, might be useful; but could have no binding force whatever. The first Electors had no right to choose a Vice President. To claim it was overstepping their duty, and arrogating to themselves a power not given to them by the Constitution.

If there is anything in this whole transaction which has the most distant appearance of a breach of duty, it was in the Electors, by attempting to designate, and by exercising the important office of an Elector under the influence of improper motives; that is, by officiously attempting to decide the question, which of the two persons was proper for Vice President, which they were constitutionally incompetent to decide. By this conduct they attempted to break down an important guard provided by the Constitution, and improperly to release themselves from its obligations, which made it their duty to select two men qualified to be President. But if there can be a shadow

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of reason in this claim of the Electors to designate under the present Constitutional regulations, of which, to doubt, seems to be so heinous, what necessity can there be for this amendment? The object of the amendment, or certainly its chief object, is to establish the designating principle; but why this, if it can already be effected by the simple mode of placing one name first on the ballot, which is so easy to be done that it can scarcely be avoided? And if done, by the doctrine of gentlemen, it is so far binding on the House of Representatives, that if they even doubt, they are damned?

The fact certainly was, that at the last election, the great States brought forward the two candidates. They were both of the same political sentiments. This they had a Constitutional right to do. But it now seems that their language to the small States was: "because you will not give up your Constitutional rights to us, and let us go on and designate, we will stir up a civil war, and lay the blame to you; and of this improper conduct of ours we will take the advantage, and obtain an alteration of the Constitution, which will hereafter gratify us in every respect." A gentleman from Maryland (Mr. SMITH) had said, that he heard, though he could not prove it, that the Federal majority, at the time of the last election, contemplated making a law authorizing or appointing some person as President, in case no choice had been made by the House of Representatives. I was then, sir, a member of the Government, and knew nothing of such a project; it might have been so; but supposing it was, what then? Why, says the gentleman, the person thus appointed could not have kept his head on his shoulders twenty-four hours; and this would have made a civil war. If the majority now should contemplate a measure which the Constitution does not authorize—as it clearly did not authorize the measure suspected by the gentleman, though he cannot prove it—the best thing in the world for them to do would be to give up, without any attempt to effect it, as it seems the Federal majority did. But what argument all this can afford in favor of the amendment, or why it was mentioned in this debate, is beyond my comprehension. In the result of the last election, the great States and the ruling political party were certainly gratified, and there does not appear the least reasonable ground of complaint against the small States, in the use of their Constitutional rights on the occasion. All support, therefore, to the amendment, drawn from that transaction, must fail.

I have said that the article fixing the mode of electing a Chief Magistrate was, from its nature, attended with many difficulties. A more strict inquiry into the Constitutional mode, and a comparison of it in some other and more particular points with the proposed alteration, will be useful in forming an opinion of their relative merits.

As the Constitution stands each Elector is to write the names of two persons on a piece of paper called a ballot. Either of the two persons thus voted for may be President, and the Elector cannot know which. This affords the most pow-

erful inducement to vote for two, both of whom are qualified for the very important office. For it is not only uncertain upon whom the choice will fall at first, but the one remaining will certainly be President upon any contingency which shall remove or incapacitate the first. The Convention seem to have selected a mode of proceeding the most simple, the least liable to accident, and the best calculated to insure the main object, that is, that both should be really worthy of the trust. If one candidate wishes to make interest with the Electors, as each must vote for two, it will be impossible for bribery or intrigue to succeed; for, without corrupting the whole, or certainly many more than half, he may be defeated by the other candidate on the ballot. This is, perhaps, the most effectual bar to intrigue that was ever contrived; for, unless all, or a great proportion of the Electors are corrupted, an extreme case of depravity not probable in any country, intrigue can have no assurance of success. The danger and difficulty which must always attend such an important election as that of Chief Magistrate of the United States, was meant to be avoided by diminishing the chances of its frequent recurrence. So, two persons are placed in condition to act as President in succession, to prevent both the evils of vacancy and a recurrence of choice more frequently than once in four years: and it seems merely incidental to this second person to be called Vice President, and neither the first nor second description of Electors can have any right to vote for him as such. Indeed, he can have no existence till the first character is designated, and then seems to be discovered, not elected. The Senate, in case of an equal number of votes for two or more remaining persons, after the President is elected, are vested with authority to choose a Vice President, for as such he is to preside over this body, and this body therefore seems to be the only Constitutional organ to designate him. Both the other descriptions of Electors have nothing to do with such a character or office, but are confined to act with a single reference to the character and office of President, and are trusted with no power to give any opinion of the character or qualifications of a Vice President; and it is remarkable that there are no appropriate qualifications made necessary by the Constitution for a Vice President; but every qualification has reference to President. There is another important feature in this part of the Constitution. It was known by the Convention that in this country, in common with all others where there is freedom of opinion and of speech, there would be parties. They likewise knew, that the intolerance of the major or ruling sect and political party, was frequently exercised upon the minor party, and that the rights of the minority ought to be protected to them.

As well then to secure the rights of the minority, as to check the intolerance of the majority, they placed the majority in jeopardy, if they should attempt at grasping all the benefits of a President and Vice President within themselves, to the total exclusion of the minority. This very case which

happened at the last session was contemplated, in which the majority attempted totally to exclude the minority from any participation. The language of the Constitution to such majorities is, "take care that you aim not at too much, for if you do, it is put into the power of the minority to check you, and, by a judicious disposition of their few votes, determine the choice of President." To avoid this event the majority will probably be cautious in the exercise of power; and thus the rights, the proper weight and influence of a minority, are secured against the conduct of the majority, which is certainly liable to be intolerant and oppressive. In this respect the spirit of the Constitution is, political moderation. And it is clear to my mind, that the experience of the last election has taught a lesson to all majorities, which will in future completely secure them from again incurring a similar risk. I recollect well that it was thought probable, when the electoral votes were given, that Mr. Burr would have a vote or two in some of the Eastern States. If he had received but one, he would have been by an electoral choice the Constitutional President. If the majority in future have powers of recollection, they will undoubtedly avoid the evil, if it is one, which happened at the last election, with such unfailling certainty, that there will be no need of the remedy proposed by the amendment. But the majority say, if their votes are so scattered for one candidate as to avoid this danger, that another will be incurred; and that is, the minority will elect a Vice President. The language of the Constitution to them is, again, "that this was meant as a security for the minority against the majority." But the majority exclaim against both these provisions as very unreasonable indeed. "What!" say they, "are minorities to govern majorities?" The answer of the Constitution is, "no, but their due weight and influence shall be secured to them, and the danger of your intolerance guarded against." For the security of small States and minorities, there is in the Constitution a mixture of the federative with the popular principles. And as it is well known that when popular majorities alone prevail, and exercise power uncontrolled by Constitutional checks, the minorities, who generally possess their proportion of integrity and virtue, are overwhelmed, and liberty itself, by the same means, destroyed; so it is in kindness to both parties, to the country and to humanity, that these wholesome checks are Constitutionally provided. Had the majority or the great States been willing fairly to have submitted to the Constitutional checks in the last election, no evil could have happened. And it is remarkable that the Constitution completely protects them, as long as they obey its precepts, in the creation of which they had an agency, and to which they have solemnly agreed. To prove that I am correct in these ideas, I not only refer to the Constitution but to the Secretary of State, (Mr. Madison.) In the Virginia Debates, volume 1, page 96, he says:

"But on a candid examination of history, we shall find that turbulence, violence, and abuse of power, by

the majority trampling on the rights of the minority, have produced factions and commotions which, in Republics, have more frequently than any other cause produced despotism. If we go over the whole history of ancient and modern Republics, we shall find their destructions to have generally resulted from those causes. If we consider the peculiar situation of the United States, and what are the resources of that diversity of sentiments which pervades its inhabitants, we shall find great danger that the same causes may terminate here in the same fatal effects which they produced in those Republics. This danger ought to be wisely guarded against. Perhaps, in the progress of this discussion, it will appear that the only possible remedy for those evils, and means of preserving and protecting the principles of republicanism, will be found in that very system which is now exclaimed against as the parent of oppression."

Mr. President, it has been often said by the discerning and judicious of this and other countries, that our Constitution, for its brevity, its comprehensiveness, its perspicuity, and the political skill contained in it, was the best State paper extant. I believe all this and even more is a tribute justly due to its merits; and I am persuaded that the article which fixes a mode for the choice of a Chief Magistrate stands most prominent among its excellencies.

Let us now, sir, examine and compare the merits of the amendment with a special reference to this last view we have taken of the Constitutional provision.

The amendment authorizes the Electors to vote for a President and Vice President by a specific designation. Is ambition in your country? Here is a direct and inviting object for its operation.—Is the integrity of your Electors assailable? You place it here in the most encouraging attitude for an assault. A fear of detection, and a sense of shame, upon the exposure of an improper action, has been, perhaps, a better security against political errors or crimes, than all the moral virtues united, when the temptation has been attended with an impossibility of detection. An intrigue with an Elector can be carried on without much danger of detection; but when your election is carried into the House of Representatives, besides the ordinary weight of character in favor of the members of that House, a detection of an intrigue with a candidate is almost certain. It will be recollected that at the last election two or three members held the choice perfectly in their own hands. If I mistake not, three gentlemen, that is, a member from New Jersey, a member from Vermont, and one from either Maryland, Delaware, or Tennessee, could have given a President to the United States. The particular gentlemen mentioned were above suspicion of bribery; but, in addition to this circumstance, if they had in the contest gone over from improper motives, or under the influence of bribery, a detection was certain.

This will remain forever the criterion, as it respects the relative danger of intrigue and bribery, in the two modes of choice. And the amendment is avowedly intended to secure a choice by Electors, and to prevent a resort to the House; be-

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cause, says the gentleman from Virginia, (Mr. TAYLOR,) "if you permit the election to go into the House, there are small States, and minorities, and all the evils of a diet election;" meaning that corruption must be the consequence. But, he says, "let there be a divided election by the Electors, meeting by States separately, and you lessen the tendency to corruption." This may look plausible in theory, but I think practice will show its fallacy.

It may be better for the Electors to meet by States than for all to be together, but this can never prove that they are less liable to corruption than the House of Representatives; which is the only point in question.

The manner of electing the Vice President, as proposed by the amendment, not only invites ambition to an unchecked operation, but exposes us to the selection of a less important and more unfit person than the Constitutional provision. In addition to his importance in the Government, arising from his incidental succession to the Chief Magistracy, the Vice President is *ex officio* President of the Senate, and gives a direct influence to the State from which he is chosen, of a third vote in this body, in all cases of equal division, which are usually the cases of most importance. Besides, his influence as presiding officer is, perhaps, more than equal to the right of a vote. It becomes therefore peculiarly important to the small States, and to minorities, whose security rests in this body, not only that their influence in the election of Vice President should not be diminished, but that no measure be adopted which may tend to bestow the office upon an unworthy character. By the proposed amendment, this character must necessarily become a sort of make-weight and stepping-stone for the Presidency. As in recruiting for an army, a man, active, and of a particular cast of character, but not very proper for a Commander-in-Chief, is employed to obtain recruits, and, upon condition that he obtains a given number, is to be rewarded with a sergeant's warrant; so, in this case, the man who can procure a given number of votes for President will be encouraged to hope for the Vice Presidency; and where will such characters be sought after? In Delaware or Rhode Island? No, sir, but in the great States; there the recruiting talents will be put in operation, because the number of recruits, or votes, will be sufficient to test his active and recruiting merits. And thus the office of Vice President will be sent to market with hardly a possible chance to meet an honest purchaser.

I have already remarked upon the alteration made by the Senate in the resolution passed by the House of Representatives, changing the number five to three. But, one addition, made this morning, deserves attention. I mean that which authorizes the Vice President to administer the Government in case neither the first nor the second Constitutional Electors effect a choice of President. This is a new principle, and its operation is more uncertain than that of any other part of the proposed amendment. Viewing it in one point of light, it may be thought to confer a new power

upon the Senate, that of giving a President to the Union. And, it is said, that this part will recompense the small States, who have the ascendancy in the Senate, for the injury inflicted by the other parts of the amendment. If it be true that the last part restores all which the former parts have taken away from us, it is inconceivable why any man can wish to pass a resolution the parts of which thus mutually destroy each other. It is possible that, by the force of intrigue and faction, the Electors may be induced to scatter their votes for both President and Vice President, in such manner as to present several candidates to the House for President, and two or more to the Senate for Vice President; in which case the Senate might immediately choose or select a Vice President. In this state of things, there is an opportunity afforded for intrigue of a very extensive and alarming nature. The Senate, I mean a majority of them, might wish that the man whom they had elected Vice President should administer the Government, and if the House could be prevented from agreeing, their wishes would be gratified. The facility of preventing over that of producing a choice is very obvious.

A bold address may be made to any member of the House, without wounding his pride or offending his morality, to adhere to his candidate, and not change his vote so as to effect a choice. He can be told that there is no danger of leaving the United States without a President, as there is one already chosen to his hand by the Senate; and this person may be more the object of his wishes than any of the other candidates, his favorite excepted. In this process the Senate may give a President to the United States. But if the probability of such a process and such an event is increased by the amendment of this morning, it cannot certainly greatly recommend it. For myself I wish for no alteration in the Constitution, not even if its operations were directly in favor of the small States, more especially if such a favor is to be derived through a sort of double conspiracy of intrigue; in the first place, to operate on the Electors, and then on the House of Representatives. It seems to me, that the small States had better be contented to enjoy the rights now secured to them by the Constitution, which they can honestly do, rather than submit to a deprivation of their rights for the sake of dishonestly obtaining a restoration of them. We may charitably and safely conclude that the majority do not intend, by this part of the amendment, to expose the country to such a scene of iniquity. And the uncertainty of its operations alone, is, in my mind, a sufficient ground for rejection. However the operation of this part of the amendment may appear in theory, as to other points, it seems to me that, in one point, all must agree: and that is, when the House of Representatives know that the United States will be left without an Executive Magistrate, in case they do not agree. This awful responsibility will speak in a voice too loud for the hardihood of party entirely to disregard. And may I not suggest, without giving offence, that the operation of this very responsibility has

been proved, at least in some degree, in the proceedings of the last Presidential election?

If this last-mentioned security be worth preserving, it follows, of course, that the part of the amendment alluded to ought not to pass.

There is another view of the Constitution which has a reference to the general subject before us; and that is, the caution exhibited with respect to the introduction of amendments. In an instrument so important, and containing many features new, if not to the world, at least to ourselves, although we might approve of its principles, yet experience might discover errors as to the mode devised for carrying those principles into effect. Hence it was the part of wisdom and caution to provide for such alterations in practice as would give the fairest operation to principles, without incurring the confusion and agitation incidental to a general Convention. But, lest the daring and restive spirit of innovation should injure or destroy, under the specious name of amendment, that same wisdom and caution hath provided salutary checks.

"Two-thirds of both Houses of the Congress shall deem it necessary" to propose amendments; and three-fourths of the State Legislatures shall ratify such amendments, before they acquire validity. I speak now, sir, of the mode which has always been, and probably will be, put in practice to obtain amendments. The other Constitutional mode is equally guarded as to numbers, but, as it has no relation to the subject now in debate, may be laid aside. "Two-thirds of both Houses," must, I think, on every fair principle of construction, mean two-thirds of all the members. The number of Senators is thirty-four, two-thirds being twenty-three. And as there is no representation from New Jersey, the number of Representatives is one hundred thirty-six, two-thirds being ninety-one.

My impressions are, sir, that this amendment cannot constitutionally be proposed to the State Legislatures unless it is agreed to in the two Houses by those numbers twenty-three and ninety-one, respectively. This is a Constitutional point, which, I am told, has never been agitated, but is certainly worthy of attention. If the construction should prevail that two-thirds of the members present, at any time, might propose amendments, the consequence is that twelve Senators, being two-thirds of a quorum, and forty-eight Representatives, being a similar two-thirds, might propose any and the most important amendments. I am aware sir, that it may be said such propositions are not final, they may yet be ratified or rejected by the State Legislatures. But the spirit of the Constitution seems to require two-thirds of the nation, acting by its proper organs, to propose amendments; and that, in so interesting a subject as a Constitutional alteration a less number should have no authority.

The letter of the Constitution will certainly justify this idea of its spirit. When two-thirds of the Senate are requisite to consent and advise to a treaty, the words are "two-thirds of the Senators present." To convict on impeachment "two-

thirds of the members present." Yeas and nays are to be entered on the Journal "at the desire of one-fifth of those present." In the two first cases it is requisite to act immediately, whether two-thirds of the whole are present or not; then we see, the expressions are clear, "two-thirds" refers to the numbers present. Why so? Because, without these expressions, the reference would have been understood to the whole number of members. In the last case, why add the word "present" to the one-fifth? Because, without that word, "one-fifth" of the whole would have been its meaning. In all other cases, when two-thirds are required, the spirit of the Constitution certainly is, and the words seem to carry the meaning, "two-thirds" of the whole numbers. It is said, "that a majority of each House shall constitute a quorum to do business," "House," in this case, must mean all the members. Two-thirds of both Houses must, on the same principles, mean two-thirds of all the members of both. There is, I acknowledge, some obscurity, in the Constitutional use of the word "House," when either of the two branches of Congress is described by it; but if the intention and sense, as well as words, are attended to, I am forcibly led to believe that two-thirds of all the members of both Houses are required to sanction propositions for amendments, and that this construction is most consistent with the wisdom and political skill of the Convention. The construction for which I contend is analogous to the caution manifest in other parts of the Constitution. It was well known to the Convention that amendments, if recommended or proposed by Congress, would have an imposing influence with the State Legislatures; and that, in no possible instance, could more evil arise from indigested measures than in the case of amendments, owing to the impossibility of clearly foreseeing their operation and effects on the general Constitutional system. It was made requisite, therefore, to wait for the uninfluenced movement of two-thirds of the popular and Federative Representatives of the nation. Whatever may be our opinion on the point now discussed, the State Legislatures have a Constitutional right to judge of it for themselves and to determine whether a proposition for an amendment is presented to them, with the sanction required, and, if, in their opinions, the requisite numbers have not agreed to the proposition, they will guard the Constitution, by refusing to ratify such amendment. My honorable friend from New Hampshire (Mr. PLUMER) has done such ample justice to this part of the subject as to place it out of the reach of my assistance, and beyond the need of any.

I am convinced, Mr. President, that the amendment now under consideration could not, in the Senate, obtain a Constitutional majority of two-thirds, or even a simple majority, were it not for the influence of instructions. Some gentlemen have ingeniously said that, until they gave this amendment the present particular examination, they had not contemplated the extent of its probable effects, and, although they entertained doubts, yet they were induced, by the instructions given

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them, to make the proposition to the Legislatures and let them decide for themselves.

Whatever may or can be said in favor of instructions generally, cannot be applicable to this case. For the purpose of obtaining amendments to the Constitution, Congress can only propose and the State Legislatures ratify. The duties are appropriate and distinct, and the uninfluenced independent act of both requisite. The Legislatures cannot ratify till a proposal is made. This subject can be elucidated and enforced by familiar examples. The House of Representatives alone can originate a bill for raising revenue, but it cannot become a law without the concurrence of the Senate. Would not the advice and instruction of the Senate to the House, intimating our desire that they would originate and send to us for concurrence, a revenue bill, be thought improper, indelicate, and even unconstitutional? The President and Senate can appoint certain officers, but they have distinct and appropriate agencies in the appointment. The President can nominate, but cannot appoint without the advice and consent of the Senate.

But the Senate cannot nominate, nor could their advice to the President to make a nomination, be either binding or proper. The character of the several independent branches of our Government, forming Constitutional checks upon each other, cannot be exemplified more fully than in the mode of producing amendments. And an interference of one independent body, upon the appropriate and distinct duties of another, can in no instance have a more prejudicial effect. Can it be thought, then, either proper or Constitutional for the State Legislatures to assume the power of instructing to propose to them a measure when the power of proposing is not only not given to them but given exclusively to Congress? As well and with as much propriety might Congress make a law attempting to bind the State Legislatures to ratify, as the Legislatures, by instructions, bind Congress to propose. In either case, the check which, for obviously wise purposes, was introduced into the Constitution, is totally destroyed. And we have not as much security against improper amendments, as we should have if the power were exclusively vested in the State Legislatures, and for this obvious reason, that, in this mode of operation, the responsibility for the adoption of an improper amendment is divided and destroyed. Is the sentiment correct, sir, that we shall be justifiable in sending forth this proposition to be considered by the State Legislatures, if we believe it ought not to be ratified? What would be thought of the Senate if they should pass a bill and send it to the House of Representatives for concurrence, the provisions of which they disliked entirely, and wished not to be established? And can any sound distinction be made between such a measure and the one now before us? In either case, the single act of the other body would be final, and in either case the people at large would be safer to have but one body in existence to legislate or make amendments; for all our agency, in both cases, would only tend to deceive and mislead, and, in

addition, to diminish if not destroy, as has just been observed, the responsibility of the other body. It has been said, sir, that the House of Representatives have twice given a sanction to this measure, and that their conduct, in this particular, adds weight to it. I wish to treat that honorable body with the highest respect, but I must deviate from the truth were I to acknowledge that their conduct upon this amendment has a tendency to convince me that they have a full understanding of the subject. Twice have they sent us a resolution, similar in its leading feature to that on your table, and made no provision that the person to be Vice President should be qualified for the highly responsible office, either in age, or citizenship; and, for aught that they had guarded against, we might have had a man in the Chief Magistracy from Morocco, a foreigner, who had not been in the country a month.

Mr. President,—it was suggested in a former part of the debate, by a gentleman from South Carolina, (Mr. BUTLER,) that the great States, or ruling party of the day, had brought forward this amendment, for the purpose of preventing the choice of a Federal Vice President at the next election. And we are now put beyond the power of doubt, that this is, at least, one motive, by the observations of several of the majority, but especially by those of the gentleman from Virginia. He informs us, and I appreciate his frankness, that if the friends of this measure do not seize the present opportunity to pass it, the opportunity will never recur. He tells us plainly, that a minor faction ought to be discouraged, that all hopes or prospect of rising into consequence, much more of rising into office, should be crushed, and that this amendment is to produce a part of these beneficial effects; which amendment he compares to the bill which was introduced into the British Parliament, to exclude a popish successor to the Crown, commonly called the exclusion bill. Have the minority then, no right left, but the right to be trampled upon by the majority? This is identically the conduct which is mentioned in the quotation which I have had the honor to make from the Secretary of State; to which I ask leave to recur: "The majority, by trampling on the 'rights of the minority, have produced factions 'and commotions, which, in Republics, have more 'frequently than any other cause produced despotism."

What avails it then, that this country has triumphed over the invasion and violence of one oppressor, if they must now be victims to the violence of thousands? Political death is denounced now; what denunciation will follow? It would be a useless affectation in us to pretend to close our eyes upon either the cause or consequences of this measure.

The spirit of party has risen so high, at the present day, that it dares to attempt what in milder times would be beyond the reach of calculation. To this overwhelming torrent every consideration must give way.

The gentleman is perfectly correct, in supposing that now is the only time to pass this resolu-



tion; there is a tide in the affairs of party most emphatically, and unless its height is taken, its acme improved, the shallows soon appear, and the present demon of party give place to a successor. A hope is undoubtedly now indulged that one great and dominant passion will, like Aaron's rod, swallow up every other, and that the favorable moment can now be seized to crush the small States, and to obtain their own agency in the transaction. And when we recur to the history of former confederacies, and find the small States arrayed in conflict against each other, to fight, to suffer, and to die, for the transient gratification of the great States, have we not some reason to fear the success of this measure?

In the Senate, is the security of the small States; their feeble voice in the House of Representatives is lost in the potent magic of numbers and wealth. Never until now has the force of the small States, which was provided by the Constitution, and lodged in this federative body, as a weapon of self-defence, been able to bear upon this question. And will the small States, instead of defending their own interest, their existence, sacrifice them to a gust of momentary passion? to the short-lived gratification of party prejudice?

This resolution, if circumstances shall equivocally demand it, can pass at the next, or any future session of Congress. But once passed, and its passage will operate like the grave; the sacrificed rights of the small States will be gone for ever. Is it possible, sir, that any small State can submit to be a satellite in the State system, and revolve in a secondary orbit around a great State? Act in humble devotion to her will, till her purposes are gratified, and then content herself to be thrown aside like a cast garment, an object of her own unceasing regret, and fit only for the hand of scorn to point its slow unmoving finger at? Can the members of the Senate who represent the small States quietly cross their hands and request the great States to bind them fast, and to draw the ligature?

I am aware, sir, that I shall be accused of an attempt to excite the jealousy of the small States. Mr. President, I represent a small State, I feel the danger, and claim the Constitutional right to sound the alarm. From the same altar on which the small States shall be immolated, will rise the smoke of sacrificed liberty; and despotism must be the dreadful successor.

It is the cause of my country and of humanity which I plead. And when one vast, overwhelming passion is in exercise, full well I know, sir, that no warning voice, no excitement but jealousy, has been found sufficiently active and energetic to dissolve the wizard spell, and force mankind to listen to argument. Jealousy, hateful in private life, has perhaps done more in the preservation of political rights than all the virtues united.

I have made the stand, sir, in the Senate, which I thought the importance of the subject demanded. If I fail here, there is hope of success with the State Legislatures. If nothing can withstand the torrent there, I shall experience the satisfaction which is derived from a consciousness of

having raised my feeble voice in defence of that Constitution, which is not only the security of the small States, but the palladium of my country's rights, and shall console myself with the reflection that I have done my duty.

MR. TAYLOR.—The opposition to this discriminating amendment to the Constitution is condensed into a single stratagem, namely: an effort to excite the passion of jealousy in various forms. Endeavors have been made to excite geographical jealousies—a jealousy of the smaller against the larger States—a jealousy in the people against the idea of amending the Constitution; and even a jealousy against individual members of this House. Sir, is this passion a good medium through which to discern truth, or is it a mirror calculated to reflect error? Will it enlighten or deceive? Is it planted in good or in evil—in moral or in vicious principles? Wherefore, then, do gentlemen endeavor to blow it up? Is it because they distrust the strength of their arguments, that they resort to this furious and erring passion? Is it because they know that

——“Trifles light as air,  
Are, to the jealous, confirmation strong  
As proofs of holy writ?”

So far as these efforts have been directed towards a geographical demarcation of the interests of the Union into North and South, in order to excite a jealousy of one division against another; and, so far as they have been used to create suspicions of individuals, they have been either so feeble, inapplicable, or frivolous, as to bear but lightly upon the question, and to merit but little attention. But the attempts to array States against States because they differ in size, and to prejudice the people against the idea of amending their Constitution, bear a more formidable aspect, and ought to be repelled, because they are founded on principles the most mischievous and inimical to the Constitution, and could they be successful, are replete with great mischiefs.

Towards exciting this jealousy of smaller States against larger States, the gentleman from Connecticut (Mr. TRACY) had labored to prove that the federal principle of the Constitution of the United States was founded in the idea of minority invested with operative power. That, in pursuance of this principle, it was contemplated and intended that the election of a President should frequently come into the House of Representatives, and to divert it from thence by this amendment would trench upon the federal principle of our Constitution, and diminish the rights of the smaller States, bestowed by this principle upon them. This was the scope of his argument to excite their jealousy, and is the amount also of several other arguments delivered by gentlemen on the same side of the question. He did not question the words, but the ideas of gentlemen. Words, selected from their comrades, are easily asserted to misrepresent opinions, as he had himself experienced during the discussion on the subject.

This idea of federalism\* ought to be well dis-

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cussed by the smaller States, before they will suffer it to produce the intended effect—that of exciting their jealousy against the larger. To him it appeared to be evidently incorrect. Two principles sustain our Constitution: one a majority of the people, the other a majority of the States; the first was necessary to preserve the liberty or sovereignty of the people; the last, to preserve the liberty or sovereignty of the States. But both are founded in the principle of majority; and the effort of the Constitution is to preserve this principle in relation both to the people and the States, so that neither species of sovereignty or independence should be able to destroy the other. Many illustrations might be adduced. That of amending the Constitution will suffice. Three-fourths of the States must concur in this object, because a less number or a majority of States might not contain a majority of people; therefore, the Constitution is not amendable by a majority of States, lest a species of State sovereignty might, under color of amending the Constitution, infringe the right of the people. On the other hand, a majority of the people residing in the large States cannot amend the Constitution, lest they should diminish or destroy the sovereignty of the small States, the federal Union, or federalism itself. Hence a concurrence of the States to amend the Constitution became necessary, not because federalism was founded in the idea of minority, but for a reason the very reverse of that idea—that is, to cover the will both of a majority of the people and a majority of States, so as to preserve the great element of self-government, as it regarded State sovereignty, and also as it regarded the sovereignty of the people.

For this great purpose certain political functions are assigned to be performed, under the auspices of the State or federal principle, and certain others under the popular principle. It was the intention of the Constitution that these functions should be performed in conformity to its principle. If that principle is in fact a government of a minority, then these functions ought to be performed by a minority. When the federal principle is performing a function, according to this idea, a majority of the States ought to decide. And, by the same mode of reasoning, when the popular principle is performing a function, then a minority of the people ought to decide. This brings us precisely to the question of the amendment. It is the intention of the Constitution that the popular principle shall operate in the election of a President and Vice President. It is also the intention of the Constitution that the popular principle, in discharging the functions committed to it by the Constitution, should operate by a majority and not by a minority. That the majority of the people should be driven, by an unforeseen state of parties, to the necessity of relinquishing their will in the election of one or the other of these officers, or that the principle of majority, in a function confided to the popular will, should be deprived of half its rights, and be laid under a necessity of violating its duty to preserve the other half, is not the intention of the Constitution.

But the gentleman from Connecticut has leaped over all this ground, and gotten into the House of Representatives, without considering the principles of the Constitution, as applicable to the election of President and Vice President by Electors, and distinguishing them from an election by the House of Representatives. And by mingling and interweaving the two modes of electing together, a considerable degree of complexity has been produced. If, however, it is admitted that in an election of a President and Vice President by Electors, that the will of the electing majority ought fairly to operate, and that an election by the will of a minority would be an abuse or corruption of the principles of the Constitution, then it follows that an amendment, to avoid this abuse, accords with, and is necessary to save these principles. In like manner, had an abuse crept into the same election, whenever it was to be made under the federal principle by the House of Representatives, enabling a minority of States to carry the election, it would not have violated the intention of the Constitution to have corrected this abuse, also, by an amendment. For, sir, I must suppose it to have been the intention of the Constitution that both the federal principle and the popular principle should operate in those functions respectively assigned to them, perfectly and not imperfectly—that is, the former by a majority of States, and the latter by a majority of the people.

Under this view of the subject, the amendment ought to be considered. Then the question will be, whether it is calculated or not to cause the popular principle, applied by the Constitution in the first instance, to operate perfectly, and to prevent the abuse of an election by a minority? If it is, it corresponds with the intention, diminishes nothing of the rights of the smaller States, and, of course, affords them no cause of jealousy.

Sir, it could never have been the intention of the Constitution to produce a state of things by which a majority of the popular principle should be under the necessity of voting against its judgment to secure a President, and by which a minor faction should acquire a power capable of defeating the majority in the election of President, or of electing a Vice President contrary to the will of the electing principle. To permit this abuse would be a fraudulent mode of defeating the operation of the popular principle in this election, in order to transfer it to the federal principle—to disinherit the people for the sake of endowing the House of Representatives; whereas it was an accidental and not an artificial disappointment in the election of a President, against which the Constitution intended to provide. A fair and not an unfair attempt to elect was previously to be made by the popular principle, before the election was to go into the House of Representatives. And if the people of all the States, both large and small, should, by an abuse of the real design of the Constitution, be bubbled out of the election of Executive power, by leaving to them the nominal right of an abortive effort, and transferring to the House of Representatives the substantial right

of a real election, nothing will remain but to corrupt the election in that House by some of those abuses of which elections by diets are susceptible, to bestow upon Executive power an aspect both formidable and inconsistent with the principles by which the Constitution intended to mould it.

The great check imposed upon Executive power was a popular mode of election; and the true object of jealousy, which ought to attract the attention of the people of every State, is any circumstance tending to diminish or destroy that check. It was also a primary intention of the Constitution to keep Executive power independent of Legislative; and although a provision was made for its election by the House of Representatives in a possible case, that possible case never was intended to be converted into the active rule, so as to destroy in a degree the line of separation and independency between the Executive and Legislative power. The controversy is not therefore between larger and smaller States, but between the people of every State and the House of Representatives. Is it better that the people—a fair majority of the popular principle—should elect Executive power; or, that a minor faction should be enabled to embarrass and defeat the judgment and will of this majority, and throw the election into the House of Representatives? This is the question. If this amendment should enable the popular principle to elect Executive power, and thus keep it separate and distinct from legislation, the intention of the Constitution, the interest of the people, and the principles of our policy, will be preserved; and if so, it is as I have often endeavored to prove in this debate, the interest of the smaller States themselves, that the amendment should prevail. For, sir, is an exposure of their Representatives to bribery and corruption (a thing which may possibly happen at some future day, when men lose that public virtue which now governs them) an acquisition more desirable than all those great objects best (if not exclusively) attainable by the election of Executive power by the popular principle of the Federal Government, as the Constitution itself meditates and prefers?

So far, then, the amendment strictly coincides with the Constitution and with the interests of the people of every State in the Union. But suppose by some rare accident the election should still be sent into the House of Representatives, does not the amendment then afford cause of jealousy to the smaller States? Sir, each State has but one vote, whether it is large or small; and the President and Vice President are still to be chosen out of five persons. Such is the Constitution in both respects now. To have enlarged the number of nominees, would have increased the occurrence of an election by the House of Representatives; and if, as I have endeavored to prove, it is for the interest of every State, that the election should be made by the popular principle of Government and not by that House, then it follows, that whatever would have a tendency to draw the election into that House, is against the interest of every State in the Union; and that

every State in the Union is interested to avoid an enlargement of the nominees, if it would have such a tendency.

Sir, the endeavor to excite a national jealousy against the idea of amending the Constitution, is in my view infinitely more dangerous and alarming than even the attempt to marshal States against States. The gentleman from Connecticut (Mr. TRACY) has twice pronounced with great emphasis, "man is man," and attempted to make inferences against all attempts to amend our Constitution from the evil moral qualities with which human nature is afflicted! Sir, he has forgotten that Governments as well as nations are constituted of men, and that if the vices of governed man ought to alarm us for the safety of liberty, the vices of governing man are not calculated to assuage our apprehensions. Sir, it is this latter species of depravity which has suggested to the people of America a new idea, enforced by constitutions. Permit me to illustrate this new idea by the terms political law and municipal law. The former is that law, called Constitutional, contrived and enacted in the United States, to control those evil moral qualities to which this creature "man" is liable when invested with power. The latter is that law enacted to control the vices of man in his private capacity. If the former species of law should be suffered to remain unchanged, the effects would be the same as if the latter should remain unchanged. Both, unaltered, would be evaded by the ingenuity, avarice, and ambition of public man, as well as private man. And, therefore, it is as necessary for the preservation of liberty, that constitutions or political law should be amended from time to time, in order to preserve liberty against the avarice and ambition of men in power, by meeting and controlling their artifices, as it is occasionally to amend municipal law, for the preservation of property against the vicious practices of men not in power.

To illustrate this argument, I will repeat a position which I lately advanced, namely, that the substance of a Constitution may be effectually destroyed, and yet its form may remain unaltered. England illustrates it. The Government of that country took its present form in the thirteenth century; but its aspect in substance has been extremely different at different periods, under the same form. Without taking time to mark the changes in substance which have taken place under the form of Kings, Lords, and Commons, it will suffice to cast our eyes upon the present state of that Government. What are now its chief and substantial energies? Armies, debt, Executive patronage, penal laws, and corporations. These are the modern energies or substance of the English monarchy; to the ancient English monarchy they were unknown. Of the ancient, they were substantial abuses; for, whether these modern energies are good or bad, they overturned the ancient monarchy substantially, without altering its form. Under every change of Administration these abuses proceeded. The *outs* were clamorous for preserving the constitution, as they called it;

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for, though divorced from its administration, the hope of getting in again caused them to maintain abuses, by which their avarice or ambition might be gratified upon the next turn of the wheel; just as in Prussia, where divorces are common, nothing is more usual than for late husbands to affect a violent passion for a former wife, if she carried off from him a good estate! And the *ins* fearing the national jealousy, and the prepossession against amending the form of Government, and meeting new abuses by new remedies, brought no relief to the nation. So that under every change of men abuses proceeded.

The solution of this effect exists in the species of political craft similar to priestcraft. Mankind were anciently deprived of their religious liberty by a dissemination of a fanatical zeal for some idol; in times of ignorance, this idol was of physical structure; and when that fraud was detected, a metaphysical idol in the shape of a tenet or dogma was substituted for it, infinitely more pernicious in its effects, because infinitely more difficult of detection. The same system has been pursued by political craft. It has ever labored to excite the same species of idolatry and superstition for the same reason, namely, to conceal its own frauds and vices. Sometimes it sets up a physical, at others a metaphysical idol, as the object of vulgar superstition. Of one, the former "Grand Monarch of France;" of the other, the present "Church and State" tenet of England is an evidence. And if our Constitution is to be made like the "Church and State" tenet of England, a metaphysical political idol, which it will be sacrilege to amend, even for the sake of saving both that and the national liberty; and if, like that tenet, it is to be exposed to all the means which centuries may suggest to vicious men for its substantial destruction, it is not hard to imagine that it also may become a monument of the inefficacy of unalterable forms of political law to correct avarice and ambition in the new and multifarious shapes they are forever assuming.

A Constitution may allegorically be considered as a temple for the preservation of the treasure of liberty. Around it may be posted one, two, or three, or more sentinels; but unless these sentinels are themselves watched by the people, and unless the injuries they are frequently committing upon the temple are diligently repaired, such is the nature of man in power, that the very sentinels themselves have invariably broken into the temple and conveyed away the treasure. And this because of the delusion inspired by political idolatry, which forbids nations to meet abuses by amending their Governments or constitutions; and teaches them that municipal law alone will suffice for their happiness.

Permit me, sir, to illustrate this argument by declaring how I would proceed, if such was my design to destroy the Constitution of the United States, premising that I speak prospectively and not retrospectively. I would have recourse to those very energies which constitute the English monarchy: armies, debt, Executive patronage, penal laws, and corporations. I would endeavor,

by these monarchical energies, to produce the same effects as in England; and I would hide my intentions by exciting a fanatical adoration for the Constitution, which I would endeavor to make a metaphysical idol; and which I would myself adore, in order to destroy. Whilst I pretended to be its devotee, it should become my screen.

This, sir, will be the consequence, if the people of the United States should become jealous of the amending the Constitution; and therefore this species of jealousy so industriously attempted to be excited, is calculated, if it could operate, to bring upon them the utmost calamity. Abuses of a political system will happen; and amendments only can meet abuses. Public opinion, and not an idolatrous tenet, is the element of our policy; and, however the gentleman from Massachusetts (Mr. PICKERING) may deride the opinion of the people, it is the element in which our policy is rooted, and which can at all times be safely entrusted with moulding their form of Government.

[Mr. PICKERING here explained.]

Sir, I quote gentlemen's ideas and not their words. Is it not true that the gentleman ridiculed a recommendation of this very amendment, even from a State Legislature, because of some grammatical inaccuracy; and that he reasoned against the possibility of knowing what the public opinion was; and yet, however inaccurately it may be expressed, that gentleman certainly has had sufficient evidence to convince him that public opinion is really a *noun substantive*.

It has been urged, sir, by the gentlemen in opposition, in a mode, as if they supposed we wished to conceal or deny it, that one object of this amendment is to bestow upon the majority a power to elect a Vice President. Sir, I avow it to be so. This is one object of the amendment; and the other, as to which I have heretofore expressed my sentiments, is to enable the Electors, by perfecting the election of a President, to keep it out of the House of Representatives. Are not both objects correct, if, as I have endeavored to prove, the Constitution, in all cases where it refers elections to the popular principle, intended that principle to act by majorities? Did the Constitution intend that any minor faction should elect a Vice President? If not, then an amendment to prevent it accords with, and is representative of, the Constitution. Permit me here again to illustrate by a historical case. England, in the time of Charles the Second, was divided into two parties—Protestants and Papists—and the heir to the throne was a Papist. The Protestants, constituting the majority of the nation, passed an exclusion bill, but it was defeated, and the minor Papist faction, in the person of the Duke of York, got possession of Executive power. The consequences were, domestic oppressions and rebellions, foreign wars occasionally for almost a century, and the foundation of a national debt, under which the nation has been ever since groaning, and under which the Government will finally expire.

Had the majority carried and executed the proposed exclusion of James II. from Executive power, the English would have escaped all these

calamities. Such precisely may be our case. I beg again that it may be understood that, in this application, I speak prospectively and not retrospectively.

But it is far from being improbable, that in place of these religious parties, political parties may arise of equal zeal and animosity. We may at some future day see our country divided into a Republican party and a Monarchical party. Is it wise, or according to the intention of the Constitution, that a minor monarchical faction should, by any means, acquire the power of electing a Vice President; the possible successor to Executive power? Ought a Republican majority to stake the national liberty upon the frail life of one man? Will not a monarchical Executive overturn the system of a republican Executive? And ought the United States to shut their eyes upon this possible danger until the case shall happen, when it may be too late to open them?

Sir, let us contemplate the dreadful evils which the English nation have suffered from the cause of investing Executive power in a man hostile to the national opinion, and avoid them. They suffered, because their exclusion bill was abortive. Election is our exclusion bill. Its efficacy depends upon its being exercised by a majority. It is only a minority which can render election insufficient to exclude monarchical principles from Executive power. It is against minority that election is intended to operate, because minority is the author of monarchy and aristocracy.

Shall we, sir, be so injudicious as to make election destroy the principle of election by adhering to a mode of exercising it, now seen to be capable of bestowing upon a minority the choice of a Vice President? Shall we make election, invented to exclude monarchy, a handmaid for its introduction? Or shall we, if we do not see monarchy at this day assailing our republican system, conclude that it never will; although we know that this system has but two foes, of whom monarchy is one? No, sir, let us rather draw instruction from the prophetic observations of a member of the English House of Commons, whilst the bill for excluding James II. was depending, who said:

"I hear a lion in the lobby roar,  
Say, Mr. Speaker, shall we shut the door,  
And keep him there? Or shall we let him in,  
To try if we can get him out again?"

Instead of shutting the door, the English left it open; tyranny got in; and the evils produced by its expulsion, to that nation, may possibly have been equal to those which submission would have produced.

Sir, much has been said about the rights of minorities, and the tendency of this amendment to keep up party spirit. I wish I could hear these rights of minorities defined. It is easy to comprehend the justice of the position, "that every individual in society has equal rights, whether he belongs to a majority or a minority;" but the idea of a minor faction, having political rights as a faction, to me is incomprehensible. On the contrary, I consider all minor factions as inflamed,

excited, and invigorated by a prospect of success; just as the Popish faction, in the period quoted of the English history, was kept alive and propelled to make attempts, which they never would have made, had it not been for the excitement arising from the prospect of gaining possession of Executive power; so here, if at a future day a minor and monarchical party should arise, that also will be propelled and excited by the chance of getting possession of Executive power, to keep party spirit alive, and to make attempts which they never would have made, if no such excitement existed. Hence the amendment, if it will have the effect of depriving a minor faction of the possibility of getting possession of Executive power, will suppress and not provoke party and faction.

Mr. President, we have been warned by a picture of the evils produced by the French revolution, to forbear to amend our Constitution; for what end I am at a loss to conjecture. Sir, how are these arguments intended to apply to the people of the United States? If the state of national information in France has disqualified the great mass of that nation for the enjoyment of self-government, does it therefore follow that the people of America are disqualified for self-government? If this State adopts the French nation for the species of government now existing in France, does it follow that we are adapted for a similar government? Sir, it is our superior degree of national knowledge which enables us safely to use national opinion as an element of government. This is evinced by facts. In France, constitutions were several times made and amended without producing good effect; in America, constitutions have been, in many instances, perhaps to the extent of sixty or seventy, made, repeated and amended, without producing the least disturbance or evil effects in a single case. Changes in France, even often for the worse; here generally, and perhaps constantly, for the better. It is because the public will is here rooted in a sufficient degree of public knowledge to preserve a moderate and free government. Shall we sacrifice this will and a right to amend our constitutions, to a species of metaphysical idolatry, although we owe to these sources all the prosperity and happiness we now possess? For the doctrine, "that it is a species of political sacrilege to amend constitutions, and that the people should be jealous of every such attempt;" is precisely the best means to destroy the right in the people to do so. It is a doctrine levelled against the people themselves, under the predominance of whose will the right can only be exercised; and tending to throw this mode of national self-defence against the arts of avarice and ambition in the back ground; whilst these foes can carry on their encroachments upon liberty and property, by form of law. Let not, then, the people of the United States be deterred from exercising their right to alter their constitutions, so frequently and so successfully exercised, by a picture of the French Revolution.

Finally, Mr. President, this amendment receives my approbation and support, because I think it conformable to public opinion, evidently the

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special recommendation of sundry States, and the concurrence of a great majority of the representatives of the people in the other House; because it accords with the principle of self-government that this expression of the public will should be obeyed, that the right of the nation to amend the form of its Government, should, upon that ground, be solemnly recognised; because elections, the result of preference, are more consistent with moral rectitude, than those influenced or guided by intrigue, party artifice, or the intrigues of diets; and because it was the intention of the Constitution that the election of a President and Vice President should be determined, by a fair expression of the public will by a majority, and not that this intention should be defeated by the subsequent occurrence of a state of parties, neither foreseen nor contemplated by the Constitution or those who made it.

Mr. JACKSON.—The gentleman from Connecticut has alleged that the Georgia Electors had consulted him, and that there was an intrigue, and seemed to insinuate something about bribery. I expect that gentleman will explain himself.

Mr. TRACY said he had meant no improper imputation whatever on the gentleman's character. The gentleman had talked of his being at a meeting of gentlemen in Georgia, and that a letter had been received which changed the intentions of the Electors; and he had also talked of intrigues; and it certainly appeared as if there had been something more than ordinary election proceedings when the intention was changed by a letter. He then observed that the hour was late, and moved that the House, when it adjourns, adjourn to Monday. The question was lost.

It was then moved that the House adjourn now. The question was taken, and lost, by a large majority.

Mr. BUTLER hoped gentlemen would not do one thing and tell us another. After hearing them for several hours—after sitting without refreshment from eleven to now near six—will not gentlemen afford us an opportunity to deliver our opinions upon this subject? Are gentlemen afraid of argument? Or do they wish to press us to debate, when this state of fatigue renders it scarcely possible to do justice to the subject or to ourselves? As gentlemen proceed thus, he could not avoid using strong language, and must say that he conceived such conduct grievous and oppressive—it was almost tyrannical. There were other gentlemen beside himself who wished to offer their opinions, and he hoped they would not persist in forcing a great portion of the Representatives of the States to vote without a hearing at this late hour. He moved an adjournment.

Mr. LOGAN.—As the gentleman wished to give his opinion, he hoped the House would adjourn.

On this question there were—yeas 12, nays 15.

Mr. HILLHOUSE was sorry that, after so long a debate, he should be obliged to trespass on the House, and perhaps be obliged to repeat arguments with which the House was already familiar. But the extraordinary speech of the gentleman from Virginia (Mr. TAYLOR) was such that, although

much fatigued, he could not pass it by without notice. He agreed with that gentleman, that there was danger of this Government being destroyed by idol worship: the framers of the Constitution foresaw and made provision against it. But there are more kinds of idol worship than one: the Republics of antiquity will bear witness, by their ruin, to the existence of this destructive idolatry. It is that idol worship, I fear, which blinds the gentleman himself to the consequences of this amendment, though in general he would allow him to be distinguished for candor and fairness, and for which he admired him. What is the position which the gentleman lays down and avows? That it is his purpose to prevent a minor faction from carrying a Vice President into that Chair. Had the gentleman laid aside all consideration of what the Constitution intended? Does it not say that two persons shall be voted for as President? And what was the object of this, but to afford the minority an opportunity of putting in one of the two? But gentlemen will say this is not reasonable. He thought differently. It was to prevent this idol worship, and to make the majority look about them; it was to prevent any one State domineering over the rest, or attempts of particular States to carry their idol at all risks. For this purpose, two persons were directed to be voted for. Your amendment proposes to persuade the people that there is only one man of correct politics in the United States. Your Constitution provides a remedy against this, and says you must bring forward two. If the majority will select two, and bring them fairly forward, how is it possible for the minority to bring any forward with effect?

He would suppose a case, that there is in a particular State a man who in every view is entitled to the highest respect, and so popular as to be beyond the reach of competition. According to the laws of some ancient Republics he would be condemned to the ostracism, and banished. This was the punishment of the most virtuous and meritorious men. They were banished because their popularity made them dangerous to the liberties of the Republic—because, in short, he was in danger of becoming an idol. Our Constitution, more wise and just, has provided a more safe and effectual remedy: no man can become too popular; for, if there is a portion of the people who are disposed to be infatuated, the Constitution provides there shall be two candidates; and those who are not infatuated can choose a man perhaps not so popular, but probably possessed of equal talents for the station. Had the Convention supposed two religious sects, as the Protestants and Catholics, and that there should be a candidate from each sect, the gentleman's arguments, drawn from the English exclusion bill, would be parallel. But here they have the right to choose two Protestants, or two of any sect; and the comparison of course is not perfect. What avails it that the minority should propose a Catholic, if the Protestants have a majority? They may select two Protestants, and the two will have the major vote.

The time was very remote, he believed, when it would be in the power of any man to wrest the

power out of the hands of the people of this country; but get this alteration made, and you never get back to so safe a station again. At some future day an artful and powerful man will rise, (as has been the case in all nations,) and if, by this alteration of the Constitution, he can command a majority of votes, he will take possession of the Executive Chair, and your liberties are gone; for the people of no nation have ever knowingly destroyed their own liberties.

When a whole society has become acquainted with its constitution, changes in it are dangerous. Every change you make renders the knowledge of it uncertain to the people, and the uncertainty is equally pernicious as ignorance; for, after successive changes, is the time for an usurper; and then the *friend of the people* who had stolen away their hearts, under the pretence of preserving their liberties, steals them away too. But now, as our Constitution stands, you have every guard against ambition; no man can corrupt the whole people; and if you put up two candidates, the second will be preferred to the first, if there is any danger to be apprehended from him.

When we wish to promote a particular object, we are too apt to view it only on one side. The gentleman from Virginia had compressed the object of amendment in one expression—he wished to prevent a minor faction from choosing a Vice President. The gentleman from Tennessee (Mr. COCKE) had avowed the same sentiment in still plainer terms.

It was most certainly a wise principle to guard against evil; but wisdom requires that there be a just apprehension or a real evil. He did not believe that a Federal Vice President was an evil of any kind. The gentleman had indeed talked of armies, debts, patronage, and so on, but what concern have the Senate and House of Representatives in those evils? They have not the command of armies; no member of either House can be appointed to them. The evil apprehended from these things can only attach where the command devolves upon some ambitious man, as the gentleman (Mr. JACKSON) said, above impeachment.

He was sorry the gentleman had made use of such an epithet as the *minor faction*. He believed, when that gentleman was in the minority, he did not think himself a member of a faction. Difference of opinion does not constitute faction; and a free government always implies the right of free opinion. He was in a minority, but he disclaimed faction.

Mr. TAYLOR had before stated that his arguments were wholly prospective—not present or retrospective—but founded on a presumption that, at some *very remote* time, there may be a *monarchical faction*.

Mr. HILLHOUSE was glad of the explanation; for it could not be supposed that he was a monarchical politician, nor the section of the Union which he came from disposed to monarchy. He would never consent to put up any man as a candidate for office who was in favor of monarchical principles. There were men enough in this country, always to be found, without taking up men of that

description. But how will gentlemen reconcile their dislike to monarchy with their dislike of Federalism also? The expression is to prevent a Federal Vice President being elected: this comes nearer home than monarchism. Is not every friend to this Government a Federalist—is not our Government a Federative Republic? The habits and feelings of every man in this country are strictly Republican. He was not indeed an Utopian Republican, nor could he flatter himself that the time would ever arrive when every man would think alike. He should rejoice to see such a time, but believed it would not arrive before the millenium, and was alike the creation of an heated brain. There may be degrees of party spirit—more or less asperity—but there never will come a time when party spirit will not exist; never will come a time when there will be no ambitious men aspiring to power. In the present time, gentlemen are perfectly able to place two persons of their own opinions in the two great offices. The minority cannot do it. What is the evil, then, which calls for this amendment? Is it from a fear that the minority may bring forward a monarchical character? He would not undertake to characterize those who brought forward a man whom they never intended for that office. If they have done an improper thing, bought wit is best; but he hoped that gentlemen would not do away the salutary checks of the Constitution.

Mr. DAYTON said that, in the course of their debates upon this important question, the Senate had been favored with some novel lessons in the science of ethics by an honorable member from Virginia. Aware of the impracticability of inducing the small States by mere force of reasoning to assent to a measure so injurious to their rights, he had resorted to the stronger argument of power, and threatened them with the resentment of the great States. When the too hasty threat was thrown back upon him, and treated in the manner it deserved; when an appeal was made on the occasion to the independent spirit of the Senate, the honorable gentleman from Virginia explained it to be intended, not as a menace, but only as a more effectual means of inculcating a higher sense of morality upon the little States. He had been so good also as to give the Senate a lecture in favor of calmness and moderation in debate, in a style and manner rather singular and uncommon, for he had done it in one of the most warm, animated, and impassioned speeches, that he had ever uttered on that floor. Thus to inculcate morality in the language of terror, and moderation of temper in the style and voice of passion, seems to be the peculiar faculty of that gentleman, and would have passed without this notice, if it had not been for its effect as an example. The honorable member from Tennessee, (Mr. COCKE,) either allured by the novelty or success of thus recommending one quality by exemplifying in himself the opposite character, had perfectly copied after so favorite an original. He had indeed done full justice to his great prototype by recommending to the Senate, in the commencement of that day's discussion, to take the



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vote immediately without talking, and by pointing out, in his usually concise style, the advantages and economy of silence, in a speech of nearly one hour's length. To such authorities and precepts, enforced too in such a manner, it was Mr. D.'s disposition to bow submissively, and therefore in the little he should take the liberty of saying, he should neither threaten nor rave, nor claim for any length of time the attention of the Senate. There were other considerations which prevented him from entering deeply into the merits of this question, no less than a serious indisposition, and a firm conviction that the decision in favor of the measure was immovably fixed.

Although, however, no arguments can avail to prevent the adoption of an amendment of the Constitution so fatal to the interests of a great portion of the community, yet, as a member of one of the small States, I claim a right to mourn over our fallen honors and dignity, and as a Representative from New Jersey, I deem it my duty to enter my solemn protest against the injury done to our interests and our sovereignty. But a few years ago we were equal in votes and influence, though inferior in size and population, to the largest States. We consented to give up a certain portion of that influence for the general good, expressly retaining the other portion for our own protection and security. This instrument, the Constitution, which we have sworn to support, and are now about to deface, is the new compact which that temper produced. It is the great plan of compromise between the jarring and contending interests of the great and small States. One of its most prominent and fairest features is now about to be changed and deformed. All the other amendments which have been proposed since its adoption are unimportant when compared with this. They may generally be regarded rather as operating to explain than alter the Constitution; but this strikes at that great principle, which, in all countries, has been found the most difficult of all others to settle; yet, in this country, had been considered as unalterably fixed, viz: the succession to the office of Chief Magistrate. This point, so essential to the tranquillity of every people, is now about to be disturbed and unsettled, and so important a provision as the mode of electing that great officer is to be henceforth varied according to the whim of the prevailing party, and subjected to all the fluctuations of political opinion, or the gusts of popular passion. Never was a more just sentiment expressed than that which had been uttered by an honorable gentleman, highly respectable for his talents and influence, in the other House, "that in framing amendments we ought to consider not so much what the Constitution ought to be as what it is." Paradoxical as this might seem at first sight to those who view the subject superficially, yet it is to persons of such description only, it will appear so, for never has been inculcated a doctrine more sound and salutary. It is now however, I fear, about to be disregarded in the case before us, but it cannot be done with impunity, for we shall one day repent the departure from it. You are now

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about to change this form of Government, with regard only to existing circumstances and present convenience or policy, and to change it too in one of its most prominent features. You are now about to reduce the already too little influence of the small States, without restoring to them the consideration which they gave for it. Let it not be believed, however, that (although perhaps blindly instrumental themselves in effecting this reduction) they will not hereafter claim an equivalent for the sacrifice they are compelled to make. When it is once established that the Constitution is thus to undergo changes in reference only to the prevailing policy or temper of the day, and the existing state of things, what will be the situation of this country, and whither will the principle carry us, or where will it be arrested? Even the apportionment of representation in the other branch of the Legislature must be condemned if tested by that standard, and will probably be shaken, or at least most justly attacked. It was never founded upon numbers merely, but regulated by a qualified ratio of wealth and numbers. An additional representation, equal to three-fifths of a certain description of population, was considered as the best criterion which at the time of forming the Constitution could be adopted; but it is far, very far, from being a just and true one now. Who will pretend, at this period, that six persons in North Carolina are richer than seven in Massachusetts or Connecticut; that they consume more or pay more into the Treasury? Yet this is most assuredly the calculation upon which that representation is framed and apportioned. Gentlemen may perhaps feel full security that an amendment to regulate anew the proportion of Representatives, by taking off the additional allowance for the three-fifths of the number of slaves, can never be carried; but they must be sensible that the serious discussion of it would produce most disagreeable sensations throughout the country, and they ought to beware how they originate and establish a principle, which, losing sight of the original plan of compromise, and regulated only by present expediency, will render the reconsideration and revision of that delicate subject, an act of right as well as duty.

Through the whole course of this discussion great art has been used by some of the most zealous advocates of the measure, to divert us from the real ground of distinction upon which it rests, and to lull into a fatal repose the jealousies of the small States for their rights and sovereignty. A remark of the honorable gentleman from Maryland (Mr. SMITH) tending to that object, ought not to escape animadversion. He averred that no law could be found in our statute book that was produced by a combination of States, and hence inferred that no such combination ought to be apprehended. The fact admitted, said Mr. D., and what does it prove? Not what the gentleman from Maryland would infer; not what he ought to prove, before the assertion and the argument can be worth anything to him on this occasion; not that such combination may not be feared if you alter the Constitution, but that it is

impracticable as it now stands. The refined process established for electing a President was calculated to guard against that very danger, but if altered and destroyed, we shall soon be subject to that evil. Why is it, sir, that none of our laws are the result of any combinations of States? The reason is to be found in the checks provided against it in the Constitution. Any project founded upon a coalition of the small States, originating as it must in the Senate, would be checked in the House of Representatives; and, on the other hand, any one resulting from any concert among the great States in the other branch, would and must be defeated in this. But if these wholesome checks could be done away, where could be found a security against so great a temptation? I thank God that the Convention were so enlightened as to place the equality of States in the Senate beyond the reach of amendment. Fortunate, most fortunate indeed is it, that there has been provided at least this one sanctuary of our rights, too sacred to be approached by the unhallowed feet, or touched by the unsparing hands of amendment makers.

The seventeen States, said Mr. D., may now be regarded as so many planets, equal in dignity, though unequal in size and splendor, composing the same system, and revolving in their own orbits around one common centre; but, under this new dispensation, the greater number of them are to be degraded to the dependent station of satellites, moving in diminished circles as humble attendants and with feeble lustre around the few great planets, and forever hereafter subject to their control and influence. Judging then from my own feelings, and from my knowledge of the people of the State whose sovereignty I represent—a people proud of their independence, and high-spirited in defence of their rights—they will never willingly submit to such degradation. I cannot therefore see another portion of our sovereignty stripped from us and remain silent in my place. I cannot behold that death warrant of our dearest rights and interests about to be sanctioned, without raising my loudest voice against it, and entering against it in the name of that people, the citizens of New Jersey, my formal and solemn protest.

Mr. PICKERING said, after the very able discussion which had taken place, he would not have risen on this question, but to repel a misrepresentation. He had not said "that the will of the people was never to be regarded." He had expressed his belief that the people had viewed the subject under consideration very superficially; and therefore, that their opinion, or their will, ought not to determine the votes of the Legislature. He recollected that some three or four years ago, he had heard mentioned the designating principle now contended for, and that it had struck him agreeably, as some inconvenience had occurred in the present Constitutional mode of electing the President and Vice President, to which the designating principle seemed to offer a remedy. He well remembered, however, to have heard at that time a few persons, of the first

intelligence and patriotism, say that this principle was pregnant with mischief. But he had not then investigated the subject; he had indeed viewed it very superficially. Since that time he had been a farmer, and without leisure or occasion to examine it. Thus circumstanced, he had thought himself not very uncharitable in supposing the opinion of his brother farmers, who compose the great body of the nation, to be as superficial and incorrect as his own. He would go farther, and say, that he believed the Legislative bodies who had advised the adoption of the proposed amendment had also viewed it superficially. As one evidence of it, he had referred gentlemen to the instructions of the Legislature of New York, laid before the Senate at the commencement of the session, and presenting the proposed amendment, which contained, not a clerical, or a grammatical error, as the gentleman from Virginia (Mr. TAYLOR) had said, but a palpable absurdity, in supposing that on the designating principle, when each elector would vote for one candidate, by name, to be the President, that two candidates could each have a majority of all the votes!

When this amendment was first urged upon the Senate, the motive was declared to be to prevent a recurrence of such a state of things as had happened at the last election of President, when the choice came Constitutionally before the House of Representatives. The division of the States in that House suspending for several days any choice, had brought us, some gentlemen had said, to the brink of a civil war. And an honorable member from Georgia (Mr. JACKSON) had told us, that if Mr. JEFFERSON had not been elected, the citizens of that State would have been ready, and he was disposed to believe the citizens of their sister State, South Carolina, would have been equally ready to taken up arms in his behalf. And were, Mr. P. asked, the people of the United States thus early decrepit, thus early corrupt, that, like the old monarchies of Europe, for the sake of one man, they would have rushed to arms, and involved their country in a civil war? On that one man, indeed, the honorable gentleman had repeatedly pronounced his eulogies; he was unimpeachable, he was beyond the reach of censure. Others, however, thought differently. Mr. P. believed there was abundant room for censure, but he should waive it. Men are often blind, not only to their own faults, but those of their friends. In politics, men differed in their opinions of men and things, as in religion they differed as to their religious tenets. Hence the poet's remark:

"One thinks on Calvin Heaven's own spirit fell,  
Another deems him instrument of hell."

But, said Mr. P., the great motive for the proposed amendment, at first expressed by its friends, seems not now to be relied on; while a gentleman from Tennessee, (Mr. COCKE,) with great simplicity, has told us what was its real object: "That the majority, the Republicans, may obtain the man of their choice, and with certainty prevent the election of either a Federal President or Vice President." And a gentleman from Vir-

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ginia (Mr. TAYLOR) has suggested that the proposed amendment would finally destroy the minority. And it was by such destruction, Mr. P. supposed, that "harmony was to be restored to social intercourse." But he would quote an authority which certainly the advocates of the amendment would respect. This authority had declared, "that the minority possess their equal rights, and that the will of the majority, to be rightful, must be reasonable."

Mr. P. believed that one of the most embarrassing questions before the General Convention, respected the choice of the chief Executive officer. He had been informed by a member of that convention, the gentleman from Georgia on his left, (Mr. BALDWIN,) that it had been proposed and concluded that the President of the United States should be elected by Congress for seven years, and be ever after ineligible to that office; but that late in their session the present complex mode of electing the President and Vice President was proposed; that the mode was perfectly novel, and therefore occasioned a pause; but when explained and fully considered was universally admired, and viewed as the most pleasing feature in the Constitution.

As to the proposed alteration of that mode of electing those two great officers, Mr. P. said that, when it was first offered in the Senate, at the beginning of their session, not having then examined the question, he was unprepared to give his vote; yet, if its instant decision had been forced upon the Senate, as was demanded by a gentleman from New York (Mr. CLINTON) not now of the House, he should have voted against it; believing it safer to adhere to a rule established by the deliberate wisdom of the enlightened statesmen who formed the Constitution, than to adopt an untried mode offered at a time of party dissension, and for a particular object. He should also, at that time, have been influenced to vote against it by the respect he entertained for the gentlemen with whom he usually voted, and who, at a former session, had had the subject presented to their consideration. But, having since had time to consider it, he should now vote against the amendment, on the fullest conviction of the mischiefs which would flow from it. What these were, and how much superior, how much safer was the present Constitutional mode of electing the President and Vice President, had been so amply, so clearly, and so ably shown by an honorable gentleman from Connecticut, (Mr. TRACY,) that he (Mr. P.) would not attempt to add anything to his observations. If these should have no weight with the Senate, nothing which he could offer would have the smallest influence.

But Mr. P. would attempt to trace the Constitutional mode of election to its source.

When these States were British Colonies, they had Governors and Lieutenant Governors. Both those officers were yet retained in some of the States, and in those States the designating principle had always been observed. The people gave their votes for one candidate by name, to be Governor, and to another to be Lieutenant Governor.

This practice was perfectly familiar to the members of the General Convention; why then did not they adopt it? Mr. P. would offer a conjecture.

The Governors and Lieutenant Governors were chosen for one year. The inferiority of rank and importance attached to the office of Lieutenant Governor, would naturally induce the people to think a man competent to the duties of that office, although his qualifications should be decidedly inferior to those they would deem requisite in the man they would choose for their Governor; and no material inconvenience would be apprehended from the choice of such a Lieutenant Governor, because he would administer the Government for so short a period—a portion only of one year. But to administer the affairs of a great nation more circumspection was necessary, and a longer continuance in office. The President and Vice President were to be chosen for four years. In case the office of President became vacant, the Vice President would succeed and be charged with all the duties of the President; and this might happen to be for two or three years, or even for four years, if the President should die between the time of his election and the period of his taking upon himself the Government. It was therefore an object of the highest importance to place the election of Vice President on such ground as, if possible, would necessarily produce the choice of one every way qualified for the office of President. And this would be the happy result of a correct adherence to the present Constitutional mode of electing those two great officers. All the difficulty, all the embarrassment which had hitherto been experienced, had arisen from a palpable departure from the plain Constitutional rule, from the Electors acting on the discriminating principle; not indeed by designating by name, but in their minds, which of the two persons voted for should be the President, and which the Vice President; a designation forbidden by the spirit, if not by the letter of the Constitution. If the Electors, laying aside all attempts to give one of the candidates for President an advantage over the other, vote for two men, each possessing the qualifications requisite for that high office, it will then be a matter of much indifference, as it respects the great interests of the nation, which becomes the President, and which the Vice President. The evil arising from the non-observance, by the Electors of this plain rule would, after a few elections, work its own cure. They would see a necessity of a strict adherence to the spirit of the Constitution, convinced that the true interests of the people lay in such an equal choice.

Much had been said about the interests of the large and of the small States, and those of the latter it was conceived would be deeply affected by the proposed alteration of the Constitution; but without adding to the numerous observations which had been made on that subject, Mr. P. would only remark, what on all sides had been admitted, that the Constitution was the result of compromise—of mutual sacrifices of State interests, of local wishes, and attachments, to the common good. The General Convention, after long

and full deliberation and discussion, had adjusted the balance of power among the States comprising the Union, and there was great danger, by making any alterations in the Constitution, that this balance would be destroyed. It was inexpedient frequently to change the ordinary acts of legislation; it was dangerous to be often changing the fundamental laws of a State, and still more dangerous to change those which, like the Constitution of the United States, form the bond of Union among a great number of confederated States. It was only in case of great and manifest evil arising under a Constitution, that an amendment should be attempted. Such a case did not now exist.

Mr. P. repeated that the subject of the amendment before the Senate had not been well understood by the people. That it had been only on a very superficial view of it, that what was called the *public mind* and the *public will* had been expressed; and that it was therefore the duty of gentlemen, uninfluenced by the popular voice, now to act independently, according to the dictates of their own minds; and thus secure the real and permanent interests of the people.

Mr. JACKSON.—The gentleman last up has thought proper to notice what he had said would have been the effect of the meditated usurpation at the last election. He assured that gentleman, that however much he might plume himself on his own virtues, that the people of Georgia would not take their ideas of the course that ought to be pursued, when their liberties were at stake, from any other source than the principles of virtue and freedom. The gentleman had also thought proper to notice what he called an eulogium upon the present Chief Magistrate. His language was too humble and inadequate for that great and good man's eulogium; it was far beyond any form of words which he could employ, to express the veneration which he felt for him; and he believed that, excepting only the departed WASHINGTON, no man ever possessed or merited more of the affection of the people of America than he did.

But, not content with noticing my tribute of truth, which the occasion called for and which the gentleman questions, he has given the Senate what it was to be supposed he intended for poetry; he would not compliment him on his taste for selection, any more than on his liberality. The verses are bad enough, and the application worse; they reminded him of the speech of Moloch, in the second book of Paradise Lost. But taking his verses as they are, he was content to believe the first; the gentleman might, if it could console him, believe in the second. For he did believe that the President's virtues were a hell to him.

The zeal of Georgia appears to be a matter of surprise to the gentleman. But it is by no means surprising. Why was that State so anxious for a change of Administration? Under the former Administration her rights were violated, her Government treated with studied insult. In discharge of his duty as Governor, he could scarcely get an answer on public business from the Department

of State, at the head of which that gentleman (Mr. PICKERING) was then placed. Under that Administration State rights were degraded and disregarded; we saw the principles of the Revolution brought up as topics for reproach, and we saw that we had no chance but in the resort to first principles. We looked up to the author of the Declaration of Independence,—he has not disappointed us. Would to God I were capable of doing justice to his eulogium.

Mr. WHITE proposed an adjournment; he feared the fatigue would create irritation; some warmth had already been displayed.

On the question being called (10 minutes past 7) it was lost.

Mr. WRIGHT would offer but a few words. It had been observed that our Government is the result of a compromise. So are all federal Governments. The reference to the old Confederation and their voting by States amounted to nothing conclusive; the old Congress possessed no Legislative power, they had only an Executive and recommendatory power. The Constitution was produced by the necessity of the case; no impost could be levied by the old Congress, and, to preserve the benefits of the Revolution, Virginia called the Convention. He could not account for the opposition of the gentleman from Delaware, as he would not strike the amendment out if it formed part of the Constitution.

Mr. WHITE.—The gentleman misapprehended my expression.

Mr. WRIGHT.—I took the gentleman's words down—they were these: "If the amendment formed part of the Constitution I would not vote for striking it out." He then went very largely into a recapitulation and reply to the various points of discussion, and asked if it was consistent with the principles of the Government that our laws should be like those of the Medes and Persians, their form immutable and error eternal? He asked if gentlemen would not think it a hard case if men were placed in the two first offices of Government who were neither the choice nor agreeable to either party? Yet this would not be more inconsistent or absurd than to have any one man so placed, contrary to the fundamental principle of representative government, the will of the majority. Every gentleman must recollect what a scene was exhibited in the Legislature of Pennsylvania at the late election, which could have its origin in intrigues alone, and which ended at length in a compromise which gave the most populous State in the Union the real value of no more than one vote; the same intrigues existed in New Jersey, where an organized plan existed to place a man in the Executive chair against the wishes of the nation, unchosen and unintended for the Executive chair by either party.

Here we provide a remedy for such evils—we offer you the certain means of frustrating and rendering them hopeless; we offer you a designation. But it is said that this is a party question. Gentlemen appear not to look around them, or to overlook facts staring them in the face. Do we not see gentlemen of opposite parties in politics on

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both sides of this question? Is it from party views the gentleman from South Carolina opposes it?

He was as much a friend to the principles of a majority governing as any man, but here it was a different question which he thought principally concerned—it is to prevent the disgrace and injuries of intrigues; it is to prevent men not intended to be chosen from being edged into power. At the last election what did we see? An attempt made by a party in truth hostile to the man at that time, endeavoring to put him into the Executive chair! And for what purpose? For the purpose of confusion—to distract and divide the country, and to lay the foundation of another factious Administration on one already humbled by public indignation. Had they succeeded in corrupting a single man from his duty, would it not have been usurpation of the worst species? What did his colleague say?—that after this project of wrong had failed, another was meditated; it was even supposed to set up a man who had not a single vote, and that had they attempted to carry it into execution, the people would not bear it. And the gentleman from Connecticut expresses his astonishment that the people would not bear usurpation, while he confesses that his section of the Union would have been quiet spectators of the act! He knew that the people of Maryland felt the danger and were determined to resist it, not with their arms folded but with the energy of freemen; and such was the sensation which the meditated wrong had occasioned, such was the spirit of the people to resist it, that some of the most opulent men in the State found it time to interfere.

This amendment then is intended to prevent the recurrence of such alarming dangers. Does it deprive any one or any State of a right? Is it not fit, that if I am called on to vote for President and Vice President that I should have my free choice? Is it then consistent with reason that I should be compelled to vote for one man upon equal terms whom I do not think has equal talents or equal claims to my confidence? Is it fair that I should be reduced to the alternative of choosing a wise man and a fool, in order to give the former a chance? Are not the small States as well secured by this amendment as the large? If this amendment was not intended, why has it not been guarded like those parts which cannot be changed before 1808? In this Senate the small States have their security—their equal representation, and in the provision against any change being made in their representation here without the consent of each.

The gentleman from Massachusetts (Mr. ADAMS) has drawn all his eloquence in force, he has collected all his vengeance, and pours out the vials of his wrath upon Virginia. Why this vehement, this toothless rage against that State, which in evil times had indeed stood firm, the rock of our political salvation: to whom we looked in the hour of adversity for counsel, for succor, for statesmen and leaders of our armies? To her we were indebted for a WASHINGTON, and is it because we are indebted to her for other great men that this jealous rage is vociferated against her? Is it to

be supposed that with her twenty-four votes for President she can control all the rest? We hold the true federative counterpoise, the other House has the democratic or popular, for he knew no difference. Nine or ten are destined to be small States, and will always have a majority here? Gentlemen, when they cannot make good their case by argument or fact, endeavor to make it out as well as they can. Hence, we have the declaration about small and large States, and hence so many warnings against touching the Constitution. But who are they who wish to tear up this Constitution? Two propositions have been offered of infinitely more force on the principles of the Constitution—one to abolish the office of Vice President altogether, the other to limit the election of President. We wish to provide against an evil not foreseen, and to supply the deficiency; the gentlemen wish to tear a part of the Constitution altogether. And who have proposed and advocate these erasures? The opposers of this amendment. So, that when reverence for the Constitution is spoken of, these amendments must be abandoned. Experience, sir, is worth a thousand volumes of experiments. Had it been foreseen at the last election, that such events could have proceeded from the principles of honor and good faith being rigidly observed by the republicans, many would have opposed their uniform vote and cast their vote away rather than lay the country open to intrigue and its consequences.

He had thought the number five would equally answer the purpose of election. Arguments had convinced him that three would be still more safe; because it would give the greater certainty of a choice by the people. And was there a man in that House who would dare to say that the people ought not to have the man of their choice? They look for the security of that right, and the principle of designation secures it. Is there any man who as an Elector would prefer the uncertainty of two for the certainty of one. Some affect to say we strike at fundamental principles. But we say we wish to strike at error and give stability to republican representative principles. The Constitution says the President shall be chosen by Electors; he believed there was a militant spirit against democratic republican principles, which would take the power from the people and their Electors, which would fly in the face of the Constitution itself, and tell the people it ought not to be amended; that error should be perpetual, and experience fruitless; this was notoriously avowed. Our greatest blessing and our first pride is that we have the power and the right to amend, and to redress wrongs without the resort to arms which nations are ever exposed to, where abuses are rendered sacred and hereditary. On the subject of this amendment, so far as it concerns designation, he believed the public mind could not be better known; could three-fourths of our Legislatures and two-thirds of both Houses of Congress commit treason and treachery on themselves? He was decidedly for the amendment, and for the number three.

Mr. WHITE.—The gentleman says the old Congress had no Legislative powers. Did they not

raise armies, and emit money, both high Legislative acts?

Mr. WRIGHT.—The gentleman is wholly mistaken; the several States raised armies, and moneys were raised by State contributions—all the power they had was to recommend to the States and make requisitions upon the State grants.

The question on inserting the number three was put (at ten minutes past 8 o'clock, P. M.) and carried—21 yeas, 11 nays.

Mr. DAYTON asked if the question could be taken on the whole of the designating amendment, without deciding upon the remainder of the report?\*

Mr. BUTLER.—You assuredly cannot decide upon the first part without deciding upon the whole of the report, unless you do it by power; and you can do anything, as Judge Blackstone says, by power, but make a man of a woman. Power, however, appears to be the order of the day; though he hoped the Chair will do so much justice to himself as to acknowledge that we have been hitherto in a Committee of the Whole. Some gentlemen had spoken as often as nine or ten times in the debate, and in the House that would have been contrary to order. The object of his wishes was to probe innovation. If we have hitherto been in a Committee of the Whole, as this is only a part of the report, of course it will stand as it is, and we may proceed to the remainder of the report—though, from what he had already seen, he did not expect the indulgence that he thought was due to every member of that House; and it was not impossible that it meant to press into a different course. If so, gentlemen should look to what the people of the United States would say, when they see the doors closed against all dispassionate discussion, and all opportunities open to one side of the House. There was an example of this kind given by a gentleman (Mr. COCKE,) who, after making a speech of an hour, sits down and roars out, the question! the question! Unless gentlemen mean to practice the same indelicacy as two hours ago.

The PRESIDENT wished to interrupt the gentleman for a moment barely to inform him that the question has never been before a Committee of the Whole.

A desultory conversation on the point of order

\*This question has reference to the following amendment proposed by Mr. Butler, for limiting the period for which a President should be elected, and which was not acted upon:

*Resolved*, That the following amendment be proposed to the Legislatures of the several States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes, as part of the said Constitution, to wit:

"That no person who has been twice successively elected President of the United States, shall be eligible as President, until four years shall have elapsed; but any citizen who has been President of the United States, may, after such intervention, be eligible to the office of President, for four years, and no longer."

here took place, in which Messrs. NICHOLAS, BUTLER, TRACY, S. SMITH, DAYTON, TAYLOR, FRANKLIN, HILLHOUSE, and ADAMS, spoke a few moments each. In which it was contended that the first amendment could not be decided on without first deciding on the second amendment, which was reported by the same committee.

On the other side it was maintained that the amendment for designation was a separate proposition, and might be voted upon, whether the other was voted upon or not; that the other amendment might be called up at any time without interfering with the principle or the passage of that now before the House.

The PRESIDENT decided that the question now was on agreeing to the resolution as amended. Upon which the yeas and nays were demanded, and were as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, I. Smith, S. Smith, J. Smith, Stone, Taylor, Worthington, Wright—22.

NAYS—Messrs. Adams, Butler, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, White—10.

Mr. ADAMS thought it proper for him at this stage to notice some observations directed to him. It had been presumed that he had expressed some solicitude about the election of a federal Vice President; he had expressed nothing which could countenance a solicitude about the election of a federal or anti-federal Vice President; but he had indeed noticed that the amendment appeared to him as intended directly to affect the next election; though at the same time as far as related to himself he turned out of the consideration every idea of its effect on any single case; he looked to it as it would affect a century to come—he never meant to take the diameter of the earth for the measure of a barleycorn.

The gentleman from Maryland (Mr. WRIGHT) had charged him with pouring out the vials of his wrath on Virginia; he was not conscious of uttering any degree of wrath against Virginia, and could not be persuaded that he had uttered what he certainly never felt; so far from wrath, he had ever entertained for that State the highest respect, as producing the greatest men of our Revolution. It was true, indeed, that when he heard a gentleman from that State holding forth what he had then considered as a menace, he had felt some irritation; and when he compared it with the mould and process of the measure before us, that was increased; and had he not been convinced that no menace was intended, by subsequent explanations, he should have entertained a serious alarm. His impressions were generally on the subject, that no regard had been paid to the permanent operation of the measure, but that all argument had been drawn from the last, and all consequences are calculated for the next election. From the open avowal of the gentleman from Maryland (Mr. S. SMITH) to the labored, ingenious, and eloquent arguments of the gentleman from Virginia, (Mr. TAYLOR,) all had this tendency and that view only.

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To the designating principle itself he had no objection, and believed it calculated to be productive of good. But when he heard gentlemen talk of the jealousy of States, he had little expected to find a mixture of argument drawn from English corruptions and degeneracy, applied to our home institutions. When jealousy of Executive power was spoken of, so much like the unmeaning noise out of doors, he had expected that after adding fifteen millions to the public debt at a blow; when eighty thousand men were proposed to be placed at the will of the Executive; when by four short lines the whole of the arbitrary power of the Spanish King over his subjects in Louisiana was transferred to the Executive, with all the consequent patronage, he did not expect to hear armies, debts, and patronage, introduced in the debate. When declamation of this kind is given, the best return that can be expected is declamation of the same species.

Mr. S. SMITH had not intended at any hour to have taken a further part in this debate; but when he found gentlemen resorting to stratagem when sound argument failed them, and words and sentiments are tortured from their intention, he could not remain silent. It requires very little ingenuity to lop off a part of a sentence, even in scripture, and to make the remainder blasphemy; though the whole sentence as written were the most solemn truth. The gentleman from New Jersey (Mr. DAYTON) thinks it consistent, perhaps, to construe words which never had that meaning as a threat. He would beg leave to notice a mistake of the gentleman from Massachusetts, (Mr. ADAMS,) who had charged him with an open avowal that the sole object of the amendment was to preclude the election of a Vice President. He had said that it would certainly have that effect; and that the effect would be proper and conformable to the spirit and intention of the Constitution; and he approved of it for that reason; for, under the existing mode the people, who wished to secure a proper person, or that person in whom they have the greatest portion of confidence, would be obliged to throw their votes away, and make no choice of the second officers, or leave the choice to chance. But how could the gentleman say himself, or think him guilty of the absurdity of supposing, that this amendment originated and was conducted solely with a view to the next election, and that only; or that all arguments were drawn from the last election? If he recollected correctly, the subject of this amendment was brought forward several years ago, by the representative of a small Eastern State, Mr. ABIEL FOSTER of New Hampshire. At that period those persons were of the predominant party. But they tell us it was not then carried. And why not? Most probably because they could not find members convinced of its necessity. It was proposed before the last election, and that event has convinced every one who before doubted. After all, if the Legislatures do not think proper to adopt it, it cannot pass.

Mr. TRACY.—We are told this is a proposition for the Legislatures; but will its passage through

Congress have no influence on the votes of the States? Will the Legislatures not say two-thirds of both Houses of Congress passed it, and they would not deem it necessary if it was not good? But here we have Legislatures prompting us to this measure, and it goes back to them again for their decision; that this is a measure, a measure in a hoop, it comes and goes whence it came.

The gentleman complains of attacks made on Virginia, it was never meant to reproach Virginia. But the gentleman tells us we must make an exclusion bill, and he tells you of the consequences if you do not, in order to induce you to pass it. He admired the gentlemanly manner, the openness and good nature, and he was certain that he never meant to kill us outright, but he will exclude us. We know very well what was intended by the bill for the exclusion of Popish recusants, and that with regard to the objects of the measure we stand precisely in their place. This was the very condition of the gentleman; he supposed a minority had no rights, beside that of being trampled upon, and he is for bringing in a bill of exclusion. He says he does not quote words; he caught ideas, not words. He has given a key for his ideas, they go to the extirpation of the sect of Federalists, as the exclusion bill went to the total exclusion of the sect of Popish recusants.

If gentlemen wish to shake the Constitution to pieces, if majorities must decide everything, why not go at once to a simple democracy? There were many who did not think the Constitution sufficiently democratical. The gentleman thinks so perhaps, for he tells us that a Constitution may be preserved while the liberties of the people are destroyed; he wishes you to go to the spirit which is democracy, and against which we guard. But he would not consent to go to that spirit for his remedy.

Mr. BRECKENRIDGE.—The gentleman last up had insisted on two or three arguments before repeated, that he thought proper to notice him. He insinuates that we are destroying principles. But the gentleman has lost sight of the amendment altogether, where no principle is in the smallest degree violated. He has indirectly questioned the democratic principles of the Constitution; but in the course of three weeks' discussions, for the first time he had heard anything even glancing at a denial of the people's right to choose the Executive though the medium of Electors. What is this clamor about large and small States? It has nothing to do whatever with the question. The true and only point is, what will be the best mode of effectuating the choice? We hold that the amendment is that best mode. If any principle is more sacred and all-important for free government it is, that elections should be as direct as possible; in proportion as you remove from direct election you approach danger. And if it were practicable to act without any agents in the choice, that would be preferable even to the choice by Electors. But if you wish to elect A, and you are so placed as that B is elected contrary to your wishes, can you say that this is a reasonable and just process? Has it not always been insisted that



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the two characters chosen at the last election were equally estimable? Why then was there any hesitation? Why has public opinion, so ready to declare itself, never uttered a sound of discontent at the issue, while the nation was almost in arms at the retardment of the choice. Had the now Vice President been placed by whatever secret means in that Chair, is there a man who now hears who would not say it was contrary to the intention of the people? If ever public opinion was more strongly known on any point than another, it is on this. Nine States he believed had testified their wishes on the subject. New Hampshire, New York, Vermont, Massachusetts, Tennessee, North Carolina, and Ohio, have in the most solemn manner recommended it. If the gentlemen from Massachusetts, or one of them particularly, (Mr. PICKERING,) are in doubt as to the understanding or information of their constituents on the subject, there can it is presumed be no doubt but the other House understand both the subject and the opinions of the people whom they so immediately represent. And this supposed ignorance is a reply to the gentleman from Connecticut. It is to be presumed, if they are now ignorant, that when the amendment comes before them they will possess new lights—and that all danger will be avoided by their watchfulness.

Mr. BUTLER had allowed every gentleman to speak, though he had early in the debate signified his intention to offer a few observations on this important subject, which it was his lot to oppose from a conviction of its injurious tendency. He had gratified himself in the opening of the discussion with the expectation that the regularity of proceeding would be such, that we should never more hear the voice of menace or of civil war—words which should never enter the walls of that Senate any more than the most vulgar expressions. But the hour was late. The gentleman from Kentucky has said that you should not remove the election farther from the people, and he appears to think that at the late election the disposition to place a man not intended in the Chair, was the consequence of that form of proceeding. Whatever may be the sentiments or wishes of the individuals who vote, he could take upon him to say what was the intention of the Constitution; the framers of that instrument were apprehensive of an elective Chief Magistrate; and their views were directed to prevent the putting up of any powerful man; that for this end the States should choose two, and that as public suffrage would be common to both, that either would be alike eligible, and it was totally immaterial which—he feared that the election of a single individual might exhibit all the evils which afflicted Poland.

One observation he owed to the side he had taken in this debate: it had been suggested abroad that he had changed his opinion from being in favor to an opposition of the amendment. This was not so, for when the amendment was introduced he had avowed his purpose to oppose it. He was more confirmed when he heard arguments employed avowing the determination to remove every possibility of an election in the House of Repre-

sentatives, and for this reason, that the smaller States having fewer representatives in that House, would be exposed to the corruption of any designing man, and they might be made the instruments of national ruin, as the rotten boroughs of England have in the hands of the King of that country.

If the small States then are mere rotten boroughs, and their representatives liable to corruption, is the evil remedied by this amendment? He asked if only two were to be voted for and had equal votes would it not then go to the House of Representatives as much as if there were five from which to make a choice? But the time which has been expended in this discussion has only served to render more conspicuous the anxieties by which it is pressed forward. A gentleman has asked us, shall a factious minority give a Vice President to the United States? Aye, there's the rub! He had thought that the reproachful epithet of faction, that all heat and animosity of party, should long since have been buried; and the representatives of the small States he hoped would see that they were bound by duty and by feeling not to suffer the votes to go along with those reproaches; for with that vote would pass a very material part of their sovereignty.

A great deal had been said to remove this idea of the jealousy of the States, and that it was only a stratagem set up for the occasion. Whatever gentlemen might say on that subject he would say to the small States, with the orator of Greece, "Beware of Macedon!" Beware of the great States! In this, however, there was one exception; he would exclude the State of Pennsylvania; and civil liberty was better understood and practised there than in any age or in any part of the world. He had, however, seen something very like this combination of States, and thought it behooved the small States to watch them, else they would monopolize the whole of the Executive departments; and the moment that was accomplished, farewell to the Republic, it would no longer exist; it would be succeeded by a high, haughty aristocracy of States, with an Executive moulded and accommodated to their views.

When you pass this you plant the seed of discord; the dissolution of Federalism. He thought that after a contention of seven years, with a party who he had thought abused their power, the time was come when a better course would have been pursued; he had conceived that principles would have prevailed, and that men would not absorb every consideration; but, with a member of the Convention, he would say, I hoped after so long a course of pork that our diet would be changed, but I find it is pork still with only a change of sauce.

Pass this amendment, and no man can live in the small States but under disparaging circumstances; they will have about as many rights left in society as the Helots of Greece. And why is all this done? For the purpose of showing one of the least becoming of the weak passions of man, resentment, you pursue a line of conduct reprobated by yourselves in the time of your predecessors. He was sorry the embers of party were

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kindled even by the very injudicious manner in which it had been supported. The best reflecting men see in this only the change of men without regard to measures; and that it had paved the way for a revival of the heats and animosities which ought to have been buried, but which may lead to a separation of the Union.

The question was called for loudly at half past nine, and put—the yeas and nays being taken, were:

**YEAS**—Messrs. Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Taylor, Worthington, and Wright—22.

**NAYS**—Messrs. Adams, Butler, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White: 10.

Upon the **PRESIDENT** declaring the question carried by two-thirds—

Mr. **TRACY** said he denied that the question was fairly decided. He took it to be the intention of the Constitution, that there should be two-thirds of the whole number of Senators elected, which would make the number necessary to its passage 23.

It was moved to adjourn to Monday.

Mr. **TAYLOR** said that since it was proposed to adjourn to Monday, when he should be disqualified to sit in that House, he hoped the Senate would not rise without deciding the question definitively on the gentleman's objections.

Mr. **TRACY** said he certainly would avail himself of the principle to oppose its passage through the State Legislatures.

The **PRESIDENT** declared the question had passed the Senate by the majority required, and conformable to the Constitution and former usage.

The amendment, as adopted, is as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That, in lieu of the third paragraph of the first section of the second article of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the Legislatures of the several States, shall be valid, to all intents and purposes, as part of the said Constitution, to wit:*

The Electors shall meet in their respective States and vote by ballot for President, and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and, in distinct ballots, the person voted for as Vice President; and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for the President, shall be the President, if such number be a majority of the whole number of Electors appointed: and if no person have such majority, then, from the person having the high-

est numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose, immediately, by ballot, the President. But, in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members, from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of death or any other Constitutional disability of the President.

The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person Constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States.

*Ordered*, That the Secretary request the concurrence of the House of Representatives in this resolution.

MONDAY, December 5.

The following Messages were received from the **PRESIDENT OF THE UNITED STATES**:

*To the Senate of the United States:*

In compliance with the desire of the Senate, expressed in their resolution of the 22d of November, on the impressment of seamen in the service of the United States, by the agents of foreign nations; I now lay before the Senate a letter from the Secretary of State, with a specification of the cases of which information has been received.

DEC. 5, 1803.

TH. JEFFERSON.

*To the Senate and House of*

*Representatives of the United States:*

I have the satisfaction to inform you, that the act of hostility mentioned in my message of the 4th of November, to have been committed by a cruiser of the Emperor of Morocco, on a vessel of the United States, has been disavowed by the Emperor. All differences in consequence thereof have been amicably adjusted, and the Treaty of 1796, between this country and that, has been recognised and confirmed by the Emperor, each party restoring to the other what had been detained or taken. I enclose the Emperor's orders given on this occasion.

The conduct of our officers generally, who have had a part in these transactions, has merited entire approbation.

The temperate and correct course pursued by our Consul, Mr. Simpson, the promptitude and energy of Commodore Preble, the efficacious co-operation of Captains Rodgers, and Campbell, of the returning squadron, the proper decision of Captain Bainbridge, that a vessel which had committed an open hostility, was of right to be detained for inquiry and consideration, and the general zeal of the other officers and men, are honorable facts, which I make known with pleasure. And to these I add, what was indeed transacted in another

quarter, the gallant enterprise of Captain Rodgers, in destroying, on the coast of Tripoli, a corvette of that Power, of 22 guns.

I recommend to the consideration of Congress, a just indemnification for the interest acquired by the captors of the Mishouda and Mirboha, yielded by them for the public accommodation.

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The Messages and papers therein respectively referred to, were read.

*Ordered*, That they severally lie for consideration.

On motion,

"That a committee be appointed to take into consideration the law to establish an uniform act of bankruptcy throughout the United States, and report amendments to the same, if any shall, in their own opinion, be requisite."

It was agreed that this motion should lie for consideration.

Mr. ANDERSON laid before the Senate the address of the Commissioners of the State of Tennessee, being their Senators and Representatives in Congress, appointed, and fully empowered, to settle the disputes between the United States and the said State, respecting the vacant unappropriated lands lying within that State; and it was read.

*Ordered*, That it be referred to Messrs. TRACY, BRECKENRIDGE, and ANDERSON, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported, on the 16th of November last, to the bill to divide the Indiana Territory into two separate governments, and giving the assent of Congress to the proposition of the Convention of the State of Ohio, contained in the sixth section of the seventh article of the constitution of that State; and having agreed thereto and further amended the bill,

*Ordered*, That it pass to the third reading as amended.

The Senate took into consideration the motion made on the 28th November last, that a committee be appointed to prepare a form or forms of government for the Territory of Louisiana; and it was agreed to; and

*Ordered*, That Messrs. BRECKENRIDGE, WRIGHT, JACKSON, BALDWIN, and ADAMS, be the committee.

On motion, that it be

*Resolved*, That when any bill, resolution, or amendment, shall be agreed on, no reconsideration shall take place on the same day, unless moved for by a member in the majority; nor shall any reconsideration of a bill, resolution, or amendment, take place the succeeding day, but with the consent of four-fifths of the House.

It was agreed that this motion should lie for consideration.

TUESDAY, December 6.

The Senate took into consideration the amendments, reported the 28th of November last, to the bill, entitled "An act fixing the salaries of certain officers therein mentioned," and having amended the report, the amendments were adopted, except the last.

*Ordered*, That the consideration of the last amendment reported be postponed.

The bill to divide the Indiana Territory into two separate governments, and giving the assent of Congress to the proposition of the State of Ohio contained in the sixth section of the seventh article of the constitution of that State, was read the third time and further amended; and,

*Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to divide the Indiana Territory into two separate governments."

Mr. S. SMITH, from the committee to whom the subject was referred, on the second instant, reported a bill to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States; and the bill was read and ordered to the second reading.

*Ordered*, That the last resolution reported by the committee, appointed on the 22d of October last, to consider the motion for an amendment to the Constitution, in the mode of electing a President and Vice President of the United States, be the order of the day for to-morrow.

On motion, the Senate adjourned.

WEDNESDAY, December 7.

AARON BURR, Vice President of the United States and President of the Senate, attended.

The bill to authorize the sale of the frigate General Greene, and a further addition to the Naval armament of the United States, was read the second time.

JOHN ARMSTRONG, appointed a Senator by the Executive of the State of New York, in the room of De Witt Clinton, resigned, attended.

THURSDAY, December 8.

The credentials of Mr. ARMSTRONG were read, and the oath was administered to him by the Vice President, as the law provides.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

Since the last communication made to Congress of the laws of the Indiana Territory, I have received those of which a copy is now inclosed, for the information of both Houses.

TH. JEFFERSON.

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The Message was read,

*Ordered*, That the Message, and the laws therein referred to, lie for consideration.

On motion,

"That a committee be appointed to examine whether any, and what, amendments are necessary to the 'Act for the punishment of certain crimes against the United States.'"

It was agreed that this motion lie for consideration.

The Senate resumed the second reading of the bill, entitled "An act to repeal an act, entitled 'An act to establish an uniform system of bankruptcy throughout the United States;'" and, after debate, the Senate adjourned.

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FRIDAY, December 9.

The Senate took into consideration the motion made yesterday, that a committee be appointed to examine whether any, and what, amendments are necessary to the "Act for the punishment of certain crimes against the United States;" and,

*Ordered*, That Messrs. SAMUEL SMITH, BALDWIN, and ARMSTRONG, be the committee.

On motion,

"That a committee be appointed to examine and report whether any, and what, further protection ought to be given to the navigation and seamen of the United States:"

*Ordered*, That this motion lie for consideration.

The Senate resumed the second reading of the bill, entitled "An act to repeal an act, entitled 'An act to establish an uniform system of bankruptcy throughout the United States.'"

*Ordered*, That this bill have the third reading on Monday next.

The Senate resumed the second reading of the bill to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States; and having agreed to sundry amendments, the bill was ordered to the third reading as amended.

The Senate resumed the second reading of the bill entitled "An act fixing the salaries of certain officers therein mentioned;" and it was agreed that the consideration of this bill be postponed.

The Senate took into consideration the motion made on the 25th of November last, that a committee of — members be appointed, to inquire whether any, and, if any, what, further measures may be necessary for carrying into effect the treaty between the United States and the French Republic, concluded at Paris on the 30th of April, 1803, whereby Louisiana was ceded to the United States; and on the question to agree to this motion, it passed in the negative.

On motion, the Senate adjourned.

MONDAY, December 12.

Mr. WORTHINGTON presented the petition of Eleazer Olney, of Marietta, late a resident in the province of Nova Scotia, praying to be entitled to the benefits of the "Act for the relief of the refugees from the British provinces of Canada and Nova Scotia," for reasons stated in the petition; and the petition was read.

*Ordered*, That it be referred to the committee appointed, on the 27th of October last, to consider the petition of Martha Seamans and others, to report thereon to the Senate.

The Senate resumed the consideration of the last resolution reported by the committee appointed on the 22d of October last, to consider the motion for an amendment to the Constitution in the mode of electing the President and Vice President of the United States; which is as follows:

"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following amendment be proposed to the Legislatures of the several States as an amendment to the

Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid, to all intents and purposes, as part of the said Constitution, to wit:

"That no person who has been twice successively elected President of the United States shall be eligible as President until four years shall have elapsed: but any citizen who has been President of the United States may, after such intervention, be eligible to the office of President for four years and no longer."

On the question to agree to this resolution, it passed in the negative—yeas 4, nays 25, as follows:

YEAS—Messrs. Anderson, Butler, Dayton, and Jackson.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Hillhouse, Logan, Maclay, Olcott, Pickering, Plumer, Potter Israel Smith, John Smith, Samuel Smith, Tracy, White, Worthington, and Wright.

The Senate took into consideration the motion made on the 9th instant, that a committee be appointed to examine whether any, and what, further protection ought to be given to the navigation and seamen of the United States; and, having agreed thereto,

*Ordered*, That Messrs. S. SMITH, DAYTON, and ARMSTRONG, be this committee.

A message from the House of Representatives informed the Senate that the House have passed a resolution that the President of the United States be requested to transmit to the Executives of the several States copies of the article of amendment proposed by Congress to be added to the Constitution of the United States, respecting the election of President and Vice President, in which they desire the concurrence of the Senate.

The Senate took into consideration the motion made on the 5th instant:

"That when any bill, resolution, or amendment, shall be agreed on, no reconsideration shall take place, unless moved for by a member in the majority; nor shall any reconsideration of a bill, resolution, or amendment, take place the succeeding day, but with the consent of four-fifths of the House."

And it was agreed that this motion be referred to Messrs. TRACY, DAYTON, and BALDWIN, to consider and report thereon to the Senate.

Mr. WORTHINGTON notified the Senate that he should, to-morrow, ask leave to bring in a bill to ascertain the northwest boundary of the lands reserved by the State of Virginia for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands.

The Senate took into consideration the resolution sent from the House of Representatives that the President of the United States be requested to transmit to the Executives of the several States copies of the article of amendment proposed by Congress to be added to the Constitution of the United States, respecting the election of President and Vice President.

*Resolved*, That they do concur therein.

THE VICE PRESIDENT signed the enrolled resolution last reported to have been examined, and it

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was delivered to the committee, to be deposited with the President of the United States.

On motion,

"That the Committee on Enrolled Bills be directed to present to the President of the United States, for his approbation, the resolution which has been passed by both Houses of Congress proposing to the consideration of the State Legislatures an amendment to the Constitution of the United States respecting the mode of electing the President and Vice President thereof:"

It passed in the negative—yeas 7, nays 23, as follows:

YEAS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Butler, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Worthington, and Wright.

On motion, the Senate adjourned.

## TUESDAY, December 13.

ABRAHAM B. VENABLE, appointed a Senator by the Legislature of the State of Virginia on the 7th instant, produced his credentials, was qualified, and took his seat in the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the officers of Government, and other citizens, who suffered in their property by the insurgents in the Western counties of Pennsylvania;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. ISRAEL SMITH notified the Senate that he should, to-morrow, ask leave to bring in a bill to amend the "Act making further provision for the payment of the debts of the United States."

The bill, entitled "An act to repeal an act, entitled 'An act to establish a uniform system of bankruptcy throughout the United States,'" was read the third time; and, on motion, that the further consideration of this bill be postponed to the second Monday in December next, it passed in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Brown, Condit, Jackson, Israel Smith, Samuel Smith, Tracy, White, and Wright.

NAYS—Messrs. Anderson, Breckenridge, Butler, Cocke, Dayton, Ellery, Franklin, Hillhouse, Logan, Maclay, Olcott, Pickering, Plumer, Potter, John Smith, Venable, and Worthington.

On the question, "Shall this bill pass? it was determined in the affirmative—yeas 17, nays 12, as follows:

YEAS—Messrs. Anderson, Breckenridge, Butler, Cocke, Dayton, Ellery, Franklin, Hillhouse, Logan, Maclay, Olcott, Pickering, Plumer, Potter, John Smith, Venable, and Worthington.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Brown, Condit, Israel Smith, Samuel Smith, Tracy, White, and Wright.

So it was *Resolved*, That this bill do pass.

## WEDNESDAY, December 14.

The bill, entitled "An act for the relief of the officers of Government and other citizens who suffered in their property by the insurgents in the Western counties of Pennsylvania," was read the second time, and referred to Messrs. WORTHINGTON, LOGAN, and FRANKLIN, to consider and report thereon to the Senate.

Agreeably to notice given on the 12th instant, Mr. WORTHINGTON asked and obtained leave to bring in a bill to ascertain the northwest boundary of the lands reserved by the State of Virginia, for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands.

The Senate resumed the second reading of the bill, entitled "An act for fixing the salaries of certain officers therein mentioned," and on motion to strike out the following amendment, reported by the committee and adopted:

Line 19—After the word "dollars," "which said several compensations were established by the act passed on the second of March, 1799, and to"—

It passed in the negative—yeas 9, nays 17, as follows:

YEAS—Messrs. Anderson, Butler, Ellery, Hillhouse, Maclay, Olcott, Pickering, Plumer, and Worthington.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Franklin, Jackson, Logan, Potter, Israel Smith, Samuel Smith, Venable, and Wright.

And, having agreed to further amendments, *Ordered*, That this bill pass to the third reading as amended.

The bill to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States, was read the third time, and passed.

Mr. LOGAN presented the petition of John Taggart, of Philadelphia, praying the remission of the duty on a quantity of sugar and molasses, totally destroyed by fire on the 25th of August last, as stated at large in the petition; and the petition was read, and ordered to lie for consideration.

On motion, that it be

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what amendments ought to be made in the act, entitled "An act to prevent the importation of certain persons into certain States, by the laws whereof their admission is prohibited," and that the committee have leave to report by bill or otherwise:

*Ordered*, That this motion lie for consideration.

## THURSDAY, December 15.

The VICE PRESIDENT laid before the Senate the report of the Secretary for the Department of Treasury, on the petition of Aaron Man; which was read, and ordered to lie for consideration.

On motion, the Senate proceeded to ascertain the classes in which the Senators of the State of Ohio should be inserted, as the Constitution and rule heretofore adopted prescribe; and it was

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ordered, that two lots, No. 2, and a blank, be by the Secretary rolled up and put in the ballot box; and it was understood that the Senator who should draw the lot No. 2, should be inserted in the class of Senators whose terms of service respectively expire in four years from and after the third day of March, 1803; in order to equalize the classes.

Accordingly, Mr. WORTHINGTON drew lot No. 2, and Mr. JOHN SMITH drew the blank.

It was then agreed that two lots, Nos. 1 and 3, should be by the Secretary rolled up and put into the ballot-box, and one of these be drawn by Mr. JOHN SMITH, the Senator from the State of Ohio not classed; and it was understood that, if he should draw lot No. 1, he should be inserted in the class of Senators whose terms of service will respectively expire in two years from and after the third day of March, 1803; but, if he should draw lot No. 3, it was understood that he should be inserted in the class of Senators whose terms respectively expire in six years from and after the third day of March, 1803. Mr. JOHN SMITH drew lot No. 3, and is classed accordingly.

The bill, entitled "An act fixing the salaries of certain officers therein mentioned," was read the third time; and, on motion to strike out the words agreed to yesterday, to wit:

"Which said several compensations were established by the act passed the third of March, 1799, and to:"

It passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Butler, Dayton, Ellery, Hillhouse, Maclay, Olcott, Pickering, Plumer, White, and Worthington.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Franklin, Jackson, Potter, Israel Smith, John Smith, Samuel Smith, and Wright.

And the additional section, agreed to yesterday, was amended and adopted, as follows:

*And be it further enacted*, That, when the annual compensation of any officer of the United States, or of either House of Congress, is fixed by law, there shall not be granted or allowed, out of any contingent fund, to such officer, any other or greater compensation than is or shall be fixed by law.

On the question to agree to the final passage of the bill as amended, it was determined in the affirmative—yeas 23, nays 5, as follows:

YEAS—Messrs. Adams, Anderson, Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Butler, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Worthington, and Wright.

NAYS—Messrs. Hillhouse, Maclay, Olcott, Plumer, and White.

So it was *Resolved*, That this bill pass with amendments.

Mr. BUTLER reported, from the committee to whom was referred, on the 1st instant, the petition of James Simons, that the prayer of the petition ought not to be granted.

Mr. SAMUEL SMITH, pursuant to notice given on the 13th instant, had leave to bring in a bill to

declare the law in the case of saltpetre imported into the United States, and thereby to revive the act making provision for the payment of the debts of the United States, as far as the same respects saltpetre; and the bill was read, and ordered to a second reading.

Mr. COCKE, agreeably to leave given on the 25th of November last, brought in a bill to make further appropriations for the purpose of extinguishing Indian claims in the States of Tennessee and Kentucky; and the bill was read, and ordered to the second reading.

FRIDAY, December 16.

The bill to declare the law in the case of saltpetre imported into the United States, and thereby to revive the act making further provision for the payment of the debts of the United States, as far as the same respects saltpetre, was read the second time, and referred to Messrs. S. SMITH, TRACY, and BROWN, to consider and report thereon to the Senate.

The bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky, was read the second time, and referred to Messrs. BRADLEY, COCKE, and BROWN, to consider and report thereon to the Senate.

The Senate took into consideration the motion made yesterday, that a committee be appointed to inquire whether any, and, if any, what, amendments ought to be made in the act, entitled "An act to prevent the importation of certain persons into certain States, by the laws whereof their admission is prohibited," and that the committee have leave to report by bill or otherwise; and the motion was adopted; and

*Ordered*, That Messrs. FRANKLIN, VENABLE, and I. SMITH, be this committee.

The Senate resumed the consideration of the resolution of the House of Representatives, of the 28th of October last, for an amendment to the Constitution, in the mode of electing the President and Vice President of the United States; and

*Resolved*, That the further consideration thereof be postponed until the first Monday in September next.

On motion that a committee be appointed to take into consideration the expediency of establishing an uniform law on the subject of bankruptcies throughout the United States, it was agreed that this motion should lie for consideration.

A motion was made "that no person shall be admitted on the floor of the Senate Chamber except members of the House of Representatives, foreign Ministers, and the Heads of Departments, unless introduced by a member of the Senate."

*Ordered*, That this motion lie for consideration.

MONDAY, December 19.

Mr. WORTHINGTON from the committee to whom was referred, on the 27th of October last,

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the memorial of Martha Seamans and others, and on the 12th instant, the petition of Eleazer Olney made report; which was read, and ordered to lie for consideration.

Mr. S. SMITH, from the committee to whom the subject was referred on the 12th instant, reported a bill in addition to the act, entitled "An act for the punishment of certain crimes against the United States;" which was read, and ordered to the second reading.

The Senate took into consideration the motion made on the 16th instant, that no person be admitted on the floor of the Senate Chamber except members of the House of Representatives, foreign Ministers, and the Heads of Departments, unless introduced by a member of the Senate.

On motion, it was agreed to strike out the words, "unless introduced by a member of the Senate;" and on motion, it was agreed to subjoin, after the word "Departments," "and Judges of the Supreme and District Courts of the United States."

On motion to insert after the word "States," "and the ladies," it passed in the negative—yeas 12, nays 16, as follows:

YEAS—Messrs. Anderson, Breckenridge, Brown, Dayton, Jackson, Maclay, Potter, I. Smith, S. Smith, Tracy, White, and Wright.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Bradley, Cocke, Condit, Ellery, Franklin, Hillhouse, Olcott, Pickering, Plumer, J. Smith, Venable, and Worthington.

On motion to insert after the word "States," "the Governors and Counsellors of the respective States, and the Representatives of the State Legislatures," it passed in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Adams, Anderson, Bailey, Breckenridge, Dayton, Maclay, Potter, I. Smith, S. Smith, Tracy, Venable, Worthington, and Wright.

NAYS—Messrs. Armstrong, Baldwin, Bradley, Brown, Cocke, Condit, Ellery, Franklin, Hillhouse, Jackson, Olcott, Pickering, Plumer, J. Smith, and White.

On motion to agree to the resolution amended as follows:

*Resolved*, That no person be admitted on the floor of the Senate Chamber, except members of the House of Representatives, foreign Ministers, and Heads of Departments, and Judges of the Supreme and District Courts of the United States:

It was determined in the negative—yeas 7, nays 21, as follows:

YEAS—Messrs. Adams, Bailey, Condit, Dayton, Franklin, Jackson, and Wright.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Brown, Cocke, Ellery, Hillhouse, Maclay, Olcott, Pickering, Plumer, Potter, I. Smith, S. Smith, Tracy, Venable, White, and Worthington.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the

French Republic, and for other purposes;" in which they desire the concurrence of the Senate.

The bill brought up for concurrence was read, and ordered to the second reading.

## TUESDAY, December 20.

The bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," was read the second time, and referred to Messrs. S. SMITH, BRECKENRIDGE, ANDERSON, ARMSTRONG, and DAYTON, to consider and report thereon to the Senate.

The bill, in addition to the act, entitled "An act for the punishment of certain crimes against the United States," was read the second time.

The VICE PRESIDENT laid before the Senate a report, prepared in obedience to a resolution of the Senate of the 18th ultimo, accompanied with a statement of the direct tax; and the report was read.

*Ordered*, That it lie for consideration, and that 500 copies thereof be printed.

The Senate took into consideration the report of the committee made yesterday upon the petition of Martha Seamans and others, and Eleazer Olney; and

*Ordered*, That it be recommitted to the committee who made the report, further to consider and report thereon to the Senate.

## WEDNESDAY, December 21.

A message from the House of Representatives informed the Senate that the House disagree to all the amendments of the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned," except to the last, to which they agree.

## THURSDAY, December 22.

The Senate took into consideration the disagreement of the House of Representatives to their amendments to the bill, entitled "An act fixing the salaries of certain officers therein mentioned;" and

*Resolved*, That they insist thereon, and ask a conference on the disagreeing votes of the two Houses; and that Messrs. BRADLEY and JACKSON be the managers at the conference on the part of the Senate.

The Senate resumed the second reading of the bill, in addition to the act, entitled "An act for the punishment of certain crimes against the United States," and

*Ordered*, That it be recommitted to the original committee, further to consider and report thereon to the Senate; and that Messrs. BRECKENRIDGE and ADAMS be added thereto.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to incorporate the Directors of the Columbian Library Company," and a bill,



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entitled "An act for the relief of Paul Coulon;" in which bills they desire the concurrence of the Senate.

The bills were read, and ordered to the second reading.

*Ordered*, That Mr. MACLAY be added to the committee to whom was referred, on the 14th instant, the bill, entitled "An act for the relief of the officers of Government and other citizens who have suffered in their property by the insurgents, in the western counties of Pennsylvania."

On motion, the Senate adjourned.

FRIDAY, December 23.

The bill, entitled "An act for the relief of Paul Coulon," was read the second time, and referred to Messrs. TRACY, S. SMITH, and FRANKLIN, to consider and report thereon to the Senate.

The bill, entitled "An act to incorporate the Directors of the Columbian Library Company," was read the second time, and referred to Messrs. BRADLEY, BROWN, and S. SMITH, to consider and report thereon to the Senate.

On motion, that it be

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the President of the Senate and Speaker of the House of Representatives be, and they are hereby, authorized to adjourn the respective Houses of Congress from this day until Monday, the 2d day of January, 1804;

It passed in the negative—yeas 9, nays 11, as follows:

YEAS—Messrs. Ellery, Hillhouse, Olcott, Pickering, J. Smith, S. Smith, Tracy, Worthington, and Wright.

NAYS—Messrs. Adams, Bailey, Baldwin, Bradley, Breckenridge, Brown, Condit, Franklin, Plumer, Potter, and Venable.

Mr. BRECKENRIDGE presented the petition of the judges of the Indiana Territory, stating that great additional duties have devolved upon them since the establishment of their respective salaries, and praying an increase of compensation; and the petition was read.

*Ordered*, That it be referred to Messrs. BRECKENRIDGE, BALDWIN, and BROWN, to consider and report thereon to the Senate.

Mr. S. SMITH, from the committee to whom was referred, on the 20th instant, the bill, entitled "An act giving effect to the laws of the United States, within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," reported amendments; which were read, and ordered to lie for consideration.

On motion, it was agreed that when the Senate do adjourn they adjourn to Tuesday next.

The VICE PRESIDENT laid before the Senate the general account of the Treasurer of the United States, from October 1st, 1802, to October 1st, 1803; as also his accounts for the War and Navy Departments for the same period; which were read, and ordered to lie for consideration.

On motion, the Senate adjourned.

TUESDAY, December 27.

The Senate assembled, and on motion, adjourned.

WEDNESDAY, December 28.

Mr. JACKSON, from the committee to whom was referred, on the 4th of November last, the inquiry into the expediency of extending the carriage of the mails of the United States in stage or covered wagons, reported a letter to, and answer from, the Postmaster General on that subject; which was read.

*Ordered*, That three hundred copies thereof be printed for the use of the Senate.

A message from the House of Representatives informed the Senate that the House insist on their disagreement to the amendments of the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned," and agree to the proposed conference on the subject-matter of the disagreeing votes of the two Houses, and have appointed managers on their part.

Mr. FRANKLIN, from the committee to whom was referred, on the 7th of November last, the memorial of Robert Quillin, reported:

"That the petitioner is a pensioner on Government, with an allowance of thirty-three and a third dollars per annum, as set forth in his memorial.

"That his ratio of disability was properly ascertained, and a suitable allowance made at the time of his admission on the pension list of the United States.

"That the committee are of opinion it would be improper to make further provision for any particular cases, and therefore recommend that the petition be rejected."

And the report was adopted.

*Ordered*, That the petitioner have leave to withdraw his petition and papers.

The amendments reported by the committee to the bill, entitled "An act giving effect to the laws of the United States within the territory ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," was postponed until to-morrow.

THURSDAY, December 29.

Mr. WORTHINGTON presented the petition of John Boggs, sen., and others, residents and purchasers of lands in the State of Ohio, praying for certain alterations in the existing laws of the United States respecting the sale of the public lands; and the petition was read.

*Ordered*, That it be referred to Mr. TRACY and others, the committee appointed on the 1st day of November last, to whom was referred the petition of John Crouse and others, to consider and report thereon to the Senate.

Mr. BRADLEY, from the managers appointed to confer on the amendments insisted on by the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned," reported, that having conferred with the managers appointed on the part of the House of Representatives, they could come to no agreement.

On motion, that the Senate adhere to their amendments, disagreed to by the House of Representatives, to the bill last mentioned, it passed in the affirmative—yeas 17, nays 7, as follows:

YEAS—Messrs. Adams, Anderson, Armstrong, Baldwin, Bradley, Brown, Condit, Ellery, Franklin, Jackson, Maclay, Pickering, Potter, Israel Smith, John Smith, Worthington, and Wright.

NAYS—Messrs. Breckenridge, Cocke, Hillhouse, Olcott, Plumer, Tracy, and Venable.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act giving effect to the laws of the United States within the territory ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and, after progress, the Senate adjourned.

FRIDAY, December 30.\*

Mr. BRECKENRIDGE, from the committee appointed, on the 5th instant, for that purpose, reported a bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and the bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of John Coles;" in which they desire the concurrence of the Senate. They adhere to their disagreement to the amendments of the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned."

The bill brought up for concurrence was read, and ordered to the second reading.

Mr. WORTHINGTON, from the committee to whom was referred, on the 14th instant, the bill, entitled "An act for the relief of the officers of Government, and other citizens, who suffered in their property by the insurgents in the western counties of Pennsylvania," reported the bill with amendments; which were read, and ordered to lie for consideration.

The Senate resumed the consideration of the amendments reported by the committee to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and, after progress,

*Ordered*, That the consideration thereof be further postponed.

On motion, the Senate adjourned.

MONDAY, January 2, 1804.

The Senate assembled; and, on motion, adjourned.

TUESDAY, January 3.

Mr. TRACY, from the committee to whom was referred, on the 14th of November last, the motion to inquire if any, and what, further proceed-

ings, at present, ought to be had by the Senate respecting the impeachment of John Pickering, made report; which was read.

The bill, entitled "An act for the relief of John Coles," was read the second time, and referred to Messrs. TRACY, SAMUEL SMITH, and ELLERY, to consider and report thereon to the Senate.

Mr. FRANKLIN notified the Senate, that he should to-morrow ask leave to bring in a bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina, passed on the 22d day of December, 1803, entitled "An act to authorize the State of Tennessee to perfect titles to lands reserved to this State by the cession act."

The bill erecting Louisiana into two Territories, and providing for the temporary government thereof, was read the second time.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

I now lay before Congress the annual account of the fund established for defraying the contingent charges of Government. No occasion having arisen for making use of any part of it in the present year, the balance, of eighteen thousand five hundred and sixty dollars, unexpended at the end of the last year, remains now in the Treasury.

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The Message and account therein referred to were read, and ordered to lie on file.

The Senate resumed the consideration of the amendments reported by the committee to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and, after progress,

*Ordered*, That the consideration thereof be further postponed.

A message from the House of Representatives informed the Senate that the House have appointed managers on their part to conduct the impeachment against John Pickering, judge of the district court of the United States for the district of New Hampshire, and have also directed the said managers to carry to the Senate the articles agreed upon by the House of Representatives to be exhibited against the said John Pickering.

On motion, the Senate took into consideration the report of the committee, made this day, on what further proceedings at present ought to be had by the Senate respecting the impeachment of John Pickering; and, on motion, it was agreed that the report be postponed.

On motion, it was

*Resolved*, That, at 12 o'clock to-morrow, the Senate will resolve itself into a Court of Impeachments, at which time the following oath or affirmation shall be administered by the Secretary to the President of the Senate, and, by him, to each member of the Senate, viz: "I — solemnly swear (or affirm, as the case may be,) that, in all things appertaining to the trial of the impeachment of John Pickering, judge of the dis-

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strict court of the district of New Hampshire, I will do impartial justice, according to law;" which Court of Impeachments, being thus formed, will, at the time aforesaid, receive the managers appointed by the House of Representatives to exhibit articles of impeachment, in the name of themselves and of all the people of the United States, against John Pickering, judge of the district court for the district of New Hampshire, pursuant to notice given to the Senate this day by the House of Representatives, that they had appointed managers for the purposes aforesaid.

*Ordered*, That the Secretary lay this resolution before the House of Representatives.

*Ordered*, That a committee be appointed to search the Journals and report precedents in cases of impeachments; and that Messrs. TRACY, BRADLEY, BALDWIN, WRIGHT, and COCKE, to whom it was referred on the 14th of November last, to consider and report, if any, what further proceedings ought to be had by the Senate, respecting the impeachment of John Pickering, be this committee.

#### WEDNESDAY, January 4.

Mr. TRACY, from the committee appointed yesterday, to examine precedents, and prepare forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors, reported, in part, that it be,

*Resolved*, That, after the managers of the impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against John Pickering, the President of the Senate shall direct the Sergeant-at-Arms to make proclamation; who shall, after making proclamation, repeat the following words: "All persons are commanded to keep silence, on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States, sitting as a Court of Impeachments, articles of impeachment against John Pickering, judge of the district court for the district of New Hampshire."

After which the articles shall be exhibited; and then the President of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

And the report was adopted.

On motion, by Mr. ADAMS, that it be

*Resolved*, That any Senator of the United States, having previously acted and voted as a member of the House of Representatives, on a question of impeachment, is thereby disqualified to sit and act, in the same case, as a member of the Senate, sitting as a Court of Impeachment:

It was agreed, that this motion should lie for consideration.

Agreeably to the resolution of yesterday, the Senate formed itself into a Court of Impeachments, and proceeded therein as is stated at large in the records of the Court. [See end of Senate Debates, *post*.]

Agreeably to notice given yesterday, Mr. FRANKLIN asked and obtained leave to bring in a bill declaring the assent of Congress to an act of the

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General Assembly of the State of North Carolina; and the bill was read.

*Ordered*, That it pass to the second reading, and that it be printed, together with the act to which it refers, for the use of the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Military Establishment of the United States in the year 1804," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

Mr. ISRAEL SMITH presented the memorial of the Washington Building Company, signed Daniel C. Brent, and others, their committee, praying Legislative sanction and an act of incorporation; and the petition was read, and referred to Messrs. ISRAEL SMITH, SAMUEL SMITH, and ARMSTRONG, to consider and report thereon to the Senate.

#### THURSDAY, January 5.

After proceeding as the High Court of Impeachments, as is stated in the record, and the Court being adjourned,

Mr. ADAMS presented the petition of Constant Freeman, a native of the State of Massachusetts, and at the commencement of the Revolutionary war a resident in Canada, stating that, from early attachment to the cause of his country, he was obliged to leave that province, and having been long employed in public service, he prays to be entitled to the provisions of the acts passed the 7th of April, 1798, and the 18th of February, 1801, for the relief of the Nova Scotia and Canadian refugees; and the petition was read.

*Ordered*, That it be referred to the committee appointed on the 27th of October last, on the petition of Martha Seamans and others, to consider and report thereon to the Senate.

The bill, entitled "An act making appropriations for the support of the Military Establishment of the United States in the year 1804," was read the second time, and referred to Messrs. BRADLEY, DAYTON, and JACKSON, to consider and report thereon to the Senate.

The bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina was read the second time, and referred to Messrs. FRANKLIN, BALDWIN, COCKE, VENABLE, and ANDERSON, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1804," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate resumed the consideration of the amendments reported to the bill, entitled "An act giving effect to the laws of the United States, within the territories ceded to the United States, by the treaty of the 30th of April, 1803, between

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the United States and the French Republic, and for other purposes;" and having in part adopted the amendments,

On motion to strike out of the first section of the bill, after the words "United States," in the second instance, the following words:

"Heretofore enacted not locally inapplicable, and now in force, and all the laws of the United States which may hereafter be enacted, shall have the like force and effect in the territories ceded to the United States by the treaty of the thirtieth day of April last, between the United States and the French Republic, which they have, or may have, in the United States, unless otherwise specially provided for."

It passed in the affirmative—yeas 18, nays 8, as follows:

YEAS—Messrs. Adams, Anderson, Bailey, Baldwin, Bradley, Brown, Condit, Dayton, Ellery, Hillhouse, Jackson, Olcott, Pickering, Plumer, Potter, John Smith, Venable, and Wells.

NAYS—Messrs. Armstrong, Breckenridge, Cocke, Franklin, Maclay, Israel Smith, Samuel Smith, and Worthington.

On motion that the bill be recommitted, it passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Adams, Anderson, Dayton, Hillhouse, Jackson, Olcott, Pickering, Plumer, Tracy, Venable, and Wells.

NAYS—Messrs. Armstrong, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Maclay, Potter, Israel Smith, John Smith, Samuel Smith, and Worthington.

A motion was made to insert, in the first section, after the word "States," in the second instance, in lieu of the words stricken out, the following:

"Which relate to the imposing and the collection of duties on the importation of goods, wares, and merchandise, and on the tonnage of ships and vessels, shall have the same force and effect in the territories ceded to the United States, by the treaty of the thirtieth of April last, between the United States and the French Republic, which the said laws now have within the United States."

And on motion, the Senate adjourned.

FRIDAY, January 6.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, during the year 1804," was read the second time, and referred to Messrs. NICHOLAS, DAYTON, and TRACY, to consider and report thereon to the Senate.

The Senate resumed the consideration of the amendments to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and,

*Ordered*, That the bill, together with the amendments, be recommitted, and that Messrs. BRECKENRIDGE, DAYTON, SAMUEL SMITH, ANDERSON, and JACKSON, be the committee, further to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act for the relief of the officers of Government and other citizens, who have suffered in their property by the insurgents in the western counties of Pennsylvania;" and, on motion, it was agreed that the bill and amendments be recommitted to the original committee, further to consider and report thereon to the Senate.

MONDAY, January 9.

Mr. TRACY, from the committee to whom was referred, on the 3d instant, the bill, entitled "An act for the relief of John Coles," reported the bill without amendment.

Mr. BRADLEY, from the committee to whom was referred, on the 23d of December last, the bill, entitled "An act to incorporate the Directors of the Columbian Library Company," reported the bill with an amendment; which was read and ordered to lie for consideration.

Mr. S. SMITH, from the committee to whom was recommitted, on the 22d of December last, the bill in addition to the act, entitled "An act for the punishment of certain crimes against the United States," reported the bill with amendments; which were read and ordered to lie for consideration.

After proceedings as the High Court of Impeachments, the Senate adjourned.

TUESDAY, January 10.

The Senate took into consideration the amendments reported to the bill in addition to the act, entitled "An act for the punishment of certain crimes against the United States;" and having agreed to further amendments, they were adopted; and the bill was ordered to the third reading as amended.

*Ordered*, That the bill erecting Louisiana into two Territories, and providing for the temporary government thereof, be the order of the day for Thursday next.

The Senate took into consideration the amendment reported to the bill, entitled "An act to incorporate the Directors of the Columbian Library Company;" and the amendment was adopted.

*Ordered*, That the bill pass to the third reading as amended.

The Senate resumed the second reading of the bill, entitled "An act for the relief of John Coles."

*Ordered*, That it pass to the third reading.

A motion was made by Mr. ADAMS, that the following resolutions be adopted, to wit:

*Resolved*, That the people of the United States have never, in any manner, delegated to this Senate the power of giving its Legislative concurrence to any act for imposing taxes upon the inhabitants of Louisiana without their consent.

*Resolved*, That, by concurring in any act of Legislation for imposing taxes upon the inhabitants of Louisiana without their consent, this Senate would assume a power unwarranted by the Constitution, and dangerous to the liberties of the people of the United States.

*Resolved*, That the power of originating bills for

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raising revenue, being exclusively vested in the House of Representatives, these resolutions be carried to them by the Secretary of the Senate: that, whenever they think proper, they may adopt such measures as to their wisdom may appear necessary and expedient for raising and collecting a revenue from Louisiana.

And it was agreed that the question should be taken on the resolutions separately; and, on the question to adopt the first resolution, it passed in the negative—yeas 4, nays 22, as follows:

YEAS—Messrs. Adams, Olcott, Tracy, and White.

NAYS—Messrs. Anderson, Bailey, Baldwin, Breckenridge, Brown, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Plumer, Potter, I. Smith, John Smith, S. Smith, Stone, Venable, and Worthington.

On the question to adopt the second resolution, it passed in the negative—yeas 4, nays 22, as follows:

YEAS—Messrs. Adams, Olcott, Tracy, and White.

NAYS—Messrs. Anderson, Bailey, Baldwin, Breckenridge, Brown, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Plumer, Potter, I. Smith, J. Smith, S. Smith, Stone, Venable, and Worthington.

And on the question to adopt the third and last resolution, it was determined unanimously in the negative—nays 26, as follows:

Messrs. Adams, Anderson, Bailey, Baldwin, Breckenridge, Brown, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Olcott, Plumer, Potter, I. Smith, J. Smith, S. Smith, Stone, Tracy, Venable, White, and Worthington.

MR. BRECKENRIDGE, from the committee to whom were recommended, on the 6th instant, the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," together with the amendments thereto, reported further amendments; which were read and ordered to lie for consideration.

After proceedings as the High Court of Impeachments, the Senate adjourned.

WEDNESDAY, January 11.

The bill in addition to the act entitled "An act for the punishment of certain crimes against the United States," was read the third time.

On motion to strike out of the bill the following words: "and shall suffer death:"

It passed in the negative—yeas 7, nays 22, as follows:

YEAS—Messrs. Bradley, Ellery, Logan, Maclay, Potter, I. Smith, and Worthington.

NAYS—Messrs. Adams, Armstrong, Bailey, Baldwin, Brown, Cocke, Condit, Dayton, Franklin, Hillhouse, Jackson, Nicholas, Olcott, Pickering, Plumer, J. Smith, S. Smith, Stone, Tracy, and White.

*Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be "An act in addition to an act, entitled 'An act for the punishment of certain crimes against the United States.'"

After proceedings as the High Court of Impeachments, the Senate adjourned.

THURSDAY, January 12.

MR. TRACY, from the committee to whom was referred, on the 23d of December last, the bill, entitled "An act for the relief of Paul Coulon," reported it without amendment.

The bill, entitled "An act for the relief of John Coles," was read the third time and passed.

The bill, entitled "An act to incorporate the Directors of the Columbian Library Company," was read the third time.

*Resolved*, That this bill pass with an amendment.

After proceedings as the High Court of Impeachments, the Senate adjourned.

FRIDAY, January 13.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

The Director of the Mint having made to me his report of the transactions of the Mint for the year 1803, I now lay the same before you for your information.

TH. JEFFERSON.

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The Message and report therein referred to were read, and ordered to lie for consideration.

MR. TRACY, from the committee to whom was referred, on the 12th of December last, a motion respecting the rule of the Senate in the case of reconsideration of bills, resolutions, or amendments, made report; which report was read, and ordered to lie for consideration.

MR. WORTHINGTON, from the committee to whom was recommended, on the 6th instant, the bill, entitled "An act for the relief of the officers of Government and other citizens who suffered in their property by the insurgents in the western counties of Pennsylvania," together with the amendments thereon, reported the bill with further amendment; which was read, and ordered to lie for consideration.

The Senate resumed the second reading of the bill, entitled "An act for the relief of Paul Coulon;" and

*Ordered*, That it pass to a third reading.

The Senate took into consideration the amendments reported by the committee to whom was recommended the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes."

On the question to adopt the first section of the bill, amended as follows:

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled*, That the same duties which by law now are, or hereafter may be, laid on goods, wares, and merchandise, imported into the United States, on the tonnage of vessels, and on the passports and clearances of vessels, shall be laid and collected on goods, wares,

and merchandise, imported into the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic; and on vessels arriving in or departing from the said territories; and the following acts, that is to say, the act, entitled

An act to establish the Treasury Department;  
An act concerning the registering and recording of ships and vessels;

An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries;

An act to regulate the collection of duties on imports and tonnage;

An act to establish the compensations of the officers employed in the collection of the duties on imports and tonnage, and for other purposes;

An act for the more effectual recovery of debts due from individuals to the United States;

An act to provide more effectually for the settlement of accounts between the United States and receivers of public money;

An act to authorize the sale and conveyance of lands in certain cases, by the marshals of the United States, and to confirm former sales; and

An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities, accruing in certain cases therein mentioned; or so much of the said acts as is now in force, and also so much of any other act or acts of the United States as is now in force, or may be hereafter enacted, for laying any duties on imports, tonnage, seamen, or shipping, for regulating and securing the collection of the same; and for regulating the compensations of the officers employed in the collection of the same; for granting and regulating drawbacks, bounties, and allowances, in lieu of drawbacks; concerning the registering, recording, enrolling, and licensing, of ships and vessels; to provide for the settlement of accounts between the United States and individuals; for the recovery of debts due to the United States; and for remitting forfeitures, penalties, and disabilities; shall extend to and have full force and effect in the above-mentioned territories.

It passed in the affirmative—yeas 21, nays 8, as follows:

YEAS—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Venable, and Worthington.

NAYS—Messrs. Adams, Olcott, and Plumer.

And the bill having been further amended, conformably to the report of the committee,

*Ordered*, That it pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," in which they desire the concurrence of the Senate.

The bill brought up for concurrence was read, and ordered to the second reading.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and after progress therein, and proceedings as the High Court of Impeachments, the Senate adjourned.

SATURDAY, January 14.

Mr. SAMUEL SMITH, from the committee appointed on the 12th of December last, on the subject, having obtained leave, reported a bill further to protect the seamen of the United States; and the bill was read, and ordered to the second reading.

Mr. SAMUEL SMITH presented the petition of certain aliens, inhabitants of the city of Baltimore, praying the repeal or amendment of the first section of the act, entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject;" and the petition was read.

The bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," was read the second time, and referred to Messrs. S. SMITH, DAYTON, and JACKSON, to consider and report thereon to the Senate.

The bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," was read the third time.

On motion, it was agreed further to amend the bill by striking out the words "or Natchez," in the fourth line of fourth section; and the blank in the twelfth section was filled with the word "thirty." It was also agreed to amend the title by striking out the words, "giving effect to the laws of the United States," and inserting in lieu thereof the words, "for laying and collecting duties on imports and tonnage."

On the question to agree to the final passage of the bill as amended, it was determined in the affirmative—yeas 21, nays 3, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Olcott, Pickering, Israel Smith, John Smith, Samuel Smith, Stone, Venable, and Worthington.

NAYS—Messrs. Adams, Plumer, and Wells.

So it was *Resolved*, That this bill pass with amendments.

MONDAY, January 16.

The VICE PRESIDENT communicated a letter of this date from the Hon. THEODORUS BAILEY, resigning his seat in the Senate; which was read, and

*Ordered*, That the VICE PRESIDENT be requested to notify the Executive of the State of New York accordingly.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 14th instant, the bill entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," reported it with an amendment; which was read and adopted.

*Ordered*, That the bill pass to the third reading as amended.

Mr. JACKSON presented the petition of Charles Goodwin and others, inhabitants of the district of Barnwell and Edgefield, in the State of South

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Carolina, praying the establishment of a post office at the court-house within the said district, and another between the court-house and Campbellton, for reasons therein mentioned; and the petition was read, and ordered to lie for consideration.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

In execution of the act of the present session of Congress, for taking possession of Louisiana, as ceded to us by France, and for the temporary government thereof, Governor Claiborne, of the Mississippi Territory, and General Wilkinson, were appointed Commissioners to receive possession. They proceeded with such regular troops as had been assembled at Fort Adams, from the nearest posts, and with some militia of the Mississippi Territory, to New Orleans. To be prepared for anything unexpected which might arise out of the transaction, a respectable body of militia was ordered to be in readiness in the States of Ohio, Kentucky, and Tennessee, and a part of those of Tennessee was moved on to the Natchez. No occasion, however, arose for their services. Our Commissioners, on their arrival at New Orleans, found the province already delivered by the Commissioners of Spain to that of France, who delivered it over to them on the 20th day of December, as appears by their declaratory act accompanying this. Governor Claiborne being duly invested with the powers heretofore exercised by the Governor and Intendant of Louisiana, assumed the government on the same day, and, for the maintenance of law and order, immediately issued the proclamation and address now communicated.

On this important acquisition, so favorable to the immediate interests of our western citizens, so auspicious to the peace and security of the nation in general, which adds to our country territories so extensive and fertile, and to our citizens new brethren to partake of the blessings of freedom and self-government, I offer to Congress and our country my sincere congratulations.

TH. JEFFERSON.

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The Message and papers therein referred to were read.

*Ordered*, That they lie for consideration, and that three hundred copies thereof be printed for the use of the Senate.

Mr. SAMUEL SMITH notified the Senate that he would to-morrow ask leave to bring in a bill in relation to the Navy pension fund.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof.

On motion to amend the fourth section of the bill, by inserting the following words at the end thereof:

"The Legislative Council, a majority of the whole number concurring therein, shall have power to elect, by ballot, a delegate to Congress, who shall have a seat in the House of Representatives, and shall have the right of debating, but not of voting."

It passed in the negative—yeas 12, nays 18, as follows:

YEAS—Messrs. Anderson, Breckenridge, Cocke, El-

ry, Logan, Nicholas, Potter, Israel Smith, John Smith, Samuel Smith, Venable, and Worthington.

NAYS—Messrs. Adams, Armstrong, Baldwin, Bradley, Brown, Condit, Dayton, Franklin, Hillhouse, Jackson, Maclay, Olcott, Pickering, Plumer, Stone, Tracy, Wells, and White.

On motion to strike out the fourth section of the bill, as follows:

"SEC. 4. The Legislative powers shall be vested in the Governor, and in twenty-four of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be selected annually by the Governor from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory, or the United States. The Governor, by and with advice and consent of the said Legislative Council, or of a majority of them, shall have power to alter, modify, or repeal, the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the Constitution of the United States, with the laws of Congress, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, declarations, or worship; in all which he shall be free to maintain his own, and not be burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall, from time to time, report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The Governor or Legislative Council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to land within the said Territory. The Governor shall convene, prorogue, and dissolve the Legislative Council whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said Territory, and communicate the same, from time to time, to the President of the United States."

It passed in the negative—yeas 12, nays 18, as follows:

YEAS—Messrs. Adams, Anderson, Cocke, Hillhouse, Olcott, Plumer, Stone, Tracy, Venable, Wells, White, and Worthington.

NAYS—Messrs. Armstrong, Baldwin, Bradley, Breckenridge, Brown, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Pickering, Potter, Israel Smith, John Smith, and Samuel Smith.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

TUESDAY, January 17.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 16th of December last, the bill to declare the law in the case of saltpetre imported into the United States, and thereby to revive the act making further provision for the payment of the debts of the United States, as far as the same respects saltpetre, reported the bill with amendments; which were read, and ordered to lie for consideration.

Agreeably to notice given yesterday, Mr. S. SMITH asked and obtained leave to bring in a bill



in relation to the Navy pension fund; and the bill was read, and ordered to the second reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States;'" and a bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*;" in which bills they desire the concurrence of the Senate.

The two bills brought up for concurrence were read, and ordered to the second reading.

Mr. BRADLEY, from the committee to whom was referred, on the 5th instant, the bill, entitled "An act making appropriations for the Military Establishment of the United States in the year 1804," reported the bill with amendments; which were read, and ordered to lie for consideration.

Mr. FRANKLIN presented the petition of Thomas Dillon, addressed to the Legislature of the State of North Carolina, together with a resolution of the Legislature of the said State, representing that he, the said Dillon, is the holder of a grant from the State of North Carolina for lands within the State of Tennessee, guarantied by the United States, but that he is prevented by the laws of the United States from obtaining possession of those lands, as being within the present acknowledged Indian territories, and praying the State of North Carolina to interpose for his relief; and the memorial, together with the resolution thereon, were read.

*Ordered*, That they be printed for the use of the Senate.

The bill further to protect the seamen of the United States was read the second time.

The bill, entitled "An act for the relief of the captors of the Moorish armed ships *Meshouda* and *Mirboha*," was read the third time.

*Resolved*, That this bill pass with an amendment.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and on the question to amend the following clause of the fifth section:

"In all criminal prosecutions which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage," by striking out the words "which are capital."

It passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Adams, Anderson, Cocke, Logan, Maclay, Plumer, Stone, Tracy, Wells, White, and Worthington.

NAYS—Messrs. Baldwin, Bradley, Breckenridge, Condit, Dayton, Ellery, Franklin, Jackson, Nicholas, Olcott, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, and Venable.

And after progress, on motion,

*Ordered*, That the consideration of this bill be further postponed.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

WEDNESDAY, January 18.

The bill in relation to the Navy pension fund was read the second time, and referred to Messrs. SAMUEL SMITH, ELLERY, and BALDWIN, to consider and report thereon to the Senate.

The bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*," was read the second time, and referred to Messrs. BALDWIN, SAMUEL SMITH, and ADAMS, to consider and report thereon to the Senate.

The bill, entitled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States,'" was read the second time, and referred to Messrs. ARMSTRONG, BROWN, and NICHOLAS, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and sundry amendments thereto were moved for and read. Whereupon, it was agreed that the several amendments be printed, and that the consideration of the bill be further postponed.

On motion,

"That a committee be appointed to inquire whether any, and what amendments are necessary to the acts for recording of ships and vessels of the United States:"

*Ordered*, That this motion lie for consideration.

The Senate took into consideration the amendments reported by the committee to whom was recommitted the bill, entitled "An act for the relief of the officers of Government, and other citizens, who have suffered in their property by the insurgents in the western counties of Pennsylvania;" and

*Ordered*, That the consideration thereof be further postponed until to-morrow.

The Senate took into consideration the amendments reported to the bill, entitled "An act making appropriations for the Military Establishment of the United States in the year 1804;" and having agreed thereto,

*Ordered*, That this bill pass to the third reading as amended.

The Senate resumed the second reading of the bill further to protect the seamen of the United States; and, after debate,

*Ordered*, That the consideration thereof be postponed.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

THURSDAY, January 19.

The Senate took into consideration the motion made yesterday, that a committee be appointed to inquire whether any, and what, amendments are necessary to the acts for recording of ships and vessels of the United States; and agreed thereto; and

*Ordered*, That Messrs. SAMUEL SMITH, ELLERY, and PICKERING, be the committee to consider and report thereon to the Senate.

The bill, entitled "An act making appropriations for the Military Establishment of the Uni-

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ted States in the year 1804," was read the third time as amended.

*Resolved*, That this bill pass with amendments.

The Senate took into consideration the amendments reported by the committee to "the bill to declare the law in the case of saltpetre imported into the United States, and thereby to revive the act making further provision for the payment of the debts of the United States, as far as the same respects saltpetre;" and having agreed thereto,

*Ordered*, That the bill pass to the third reading, as amended.

The Senate resumed the consideration of the amendments reported to the bill, entitled "An act for the relief of the officers of Government, and other citizens, who have suffered in their property by the insurgents in the western counties of Pennsylvania;" and,

*Resolved*, That the further consideration of this bill be postponed until the first Monday in December next.

The Senate resumed the second reading of the bill to protect the seamen of the United States; and, after debate,

*Ordered*, That the consideration thereof be postponed until Tuesday next.

The Senate took into consideration the petition of Thomas Dillon, together with the resolution of the Legislature of the State of North Carolina thereon; and

*Ordered*, That they be referred to the committee appointed on the 5th instant, on the bill declaring the assent of Congress to the act of the General Assembly of the State of North Carolina, to consider and report thereon to the Senate.

After adjournment of the High Court of Impeachments, the Senate adjourned.

FRIDAY, January 20.

The bill, entitled "An act for the relief of Paul Coulon," was read the third time and passed.

The bill to "declare the law in the case of saltpetre imported into the United States, and thereby to revive the act making further provision for the payment of the debts of the United States, as far as the same respects saltpetre," was read the third time; and, on the question to agree to the bill as amended, it passed in the negative.

Mr. NICHOLAS, from the committee to whom was referred, on the 6th instant, the bill, entitled "An act making appropriations for the support of the Navy of the United States, during the year 1804," reported it without amendment.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

MONDAY, January 23.

The VICE PRESIDENT being absent on account of the ill state of his health, the Senate proceeded to the election of a President *pro tempore*, as the Constitution provides; and the ballots having been collected and counted, a majority thereof was for the honorable JOHN BROWN, who was accordingly elected President of the Senate *pro tempore*.

*Ordered*, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the Vice President, elected the honorable JOHN BROWN their President, *pro tempore*. And that the Secretary make a like communication to the House of Representatives.

Mr. WORTHINGTON presented the petition of Christian Van Gundy, an early settler in the Territory of the United States Northwest of the river Ohio, praying the pre-emption of a lot of which he hath long been in possession, and hath erected a mill, and made other improvements thereon; and the petition was read.

*Ordered*, That it be referred to the committee appointed on the first of November last, on the petition of John Crouse, and others, to consider and report thereon to the Senate.

Mr. LOGAN presented the memorial of the American convention for promoting the abolition of slavery, and improving the condition of the African race, signed Matthew Franklin, president, praying that such laws may be enacted as shall prohibit the introduction of slaves into the Territory of Louisiana, lately ceded to the United States; and the petition was read.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and, after progress, and the adjournment of the High Court of Impeachments, the Senate adjourned.

TUESDAY, January 24.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the better direction of the collectors of the respective ports of the United States in granting to seamen certificates of citizenship;" in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and, on motion to strike out of the fourth section, from the word "annually," line fourth, to the words "United States," line seventh, the words, "by the Governor, from among those holding real estate therein, and who shall have resided one year, at least, in the said Territory, and hold no office of profit under the Territory or the United States," for the purpose of inserting the words following:

"The Governor shall lay off and divide the territory aforesaid into twenty-four convenient districts, from each of which districts there shall be chosen, annually, by the housekeepers resident therein, two of the most fit and discreet persons, who shall also be residents therein and landholders, and holding no office of profit under the territorial government, or that of the United States, and make a return of their names to the Governor, out of which number the Governor shall select twenty-four, to wit, one from each district. But if any of the districts should refuse or neglect to make such appointment for one month after the time appointed by the Governor for making the said elections, he shall

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then have the power of selecting from each district, so refusing or neglecting, one fit person for the purposes aforesaid."

On this, a division of the question was called for, and that it be taken on striking out.

Whereupon, the yeas and nays being required by one fifth of the Senators present, on striking out, it passed in the negative—yeas 15, nays 14, as follows:

**YEAS**—Messrs. Adams, Anderson, Breckenridge, Cocke, Condit, Hillhouse, Logan, Maclay, Plumer, John Smith, Stone, Tracy, Venable, and Worthington.

**NAYS**—Messrs. Armstrong, Baldwin, Bradley, Brown, Dayton, Ellery, Franklin, Jackson, Nicholas, Olcott, Pickering, Potter, Israel Smith, and Samuel Smith.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate, and  
of the House of Representatives:*

I communicate herewith, for your information, a letter just received from Governor Claiborne, which may throw light on the subject of the government of Louisiana, under contemplation of the Legislature. The paper being original, its return is asked.

TH. JEFFERSON.

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The Message and paper were read, and ordered to lie for consideration.

WEDNESDAY, January 25.

Mr. JACKSON presented the petition of Moses Young, praying compensation for services rendered as Consul General of the United States at Madrid; and also as Secretary of Legation to the late Henry Laurens, Esq., on an embassy to Holland, as stated in his petition at a former session; and the petition was read, and referred to the Secretary for the Department of State, to consider the merits of the same, and report thereon to the Senate.

The bill, yesterday sent up for concurrence, entitled "An act for the better direction of the collectors of the respective ports of the United States, in granting to seamen certificates of citizenship," was read, and ordered to the second reading.

Mr. BALDWIN, from the committee to whom was referred, on the 18th instant, the bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the Henrick, reported it without amendment.

On motion, it was agreed that the consideration of this bill be the order of the day for Monday next.

The Senate resumed the second reading of the bill, entitled "An act making appropriations for the support of the Navy of the United States during the year 1804," and

*Ordered*, That it pass to the third reading.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 18th instant, the bill in relation to the Navy pension fund, reported it without amendment.

*Ordered*, That the further consideration of this bill be the order of the day for Monday next.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and, after debate, the Senate adjourned.

THURSDAY, January 26.

The bill, entitled "An act for the better direction of the collectors of the respective ports of the United States, in granting to seamen certificates of citizenship," was read the second time, and referred to Messrs. JACKSON, ARMSTRONG, and MACLAY, to consider and report thereon to the Senate.

The bill, entitled "An act making appropriations for the support of the Navy of the United States, during the year 1804," was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House disagree to the amendments of the Senate to the bill, entitled "An act making appropriations for the Military Establishment of the United States in the year 1804."

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and a motion was made to amend the bill, by inserting the following as section eighth:

"That it shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place without the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves; and every person so offending, and being thereof convicted, before any court within the said Territory, having competent jurisdiction, shall forfeit and pay, for each and every slave so imported or brought, the sum of — dollars, one moiety for the use of the United States, and the other moiety for the use of the person who shall sue for the same; and every slave so imported or brought shall thereupon become entitled to, and receive his or her freedom."

Whereupon, a motion was made to amend the amendment by striking out, after the words "port or place," the words "without the limits of the United States," and insert in lieu thereof, "for sale."

A division of the question was called for, and that it be taken on striking out; and, on the question, Shall the words be struck out? it passed in the negative—yeas 6, nays 22, as follows:

**YEAS**—Messrs. Baldwin, Bradley, Ellery, Jackson, Israel Smith, and Samuel Smith.

**NAYS**—Messrs. Adams, Anderson, Armstrong, Breckenridge, Brown, Cocke, Condit, Franklin, Hillhouse, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, Potter, John Smith, Stone, Venable, Wells, White, and Worthington.

On motion to agree to the original amendment, it passed in the affirmative—yeas 21, nays 6, as follows:

**YEAS**—Messrs. Anderson, Armstrong, Breckenridge,

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Brown, Cocke, Condit, Franklin, Hillhouse, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, Potter, John Smith, Stone, Venable, Wells, White, and Worthington.

**NAYS**—Messrs. Adams, Baldwin, Bradley, Ellery, Jackson, and Israel Smith.

FRIDAY, January 27.

Mr. NICHOLAS, from the committee to whom was referred, on the 18th instant, "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States,'" reported it without amendment.

Mr. FRANKLIN, from the committee to whom was referred, on the 5th instant, the bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina, reported the bill without amendment.

The Senate took into consideration their amendments disagreed to by the House of Representatives to the bill, entitled "An act making appropriations for the Military Establishment of the United States in the year 1804; and,

*Ordered*, That the consideration thereof be postponed.

MONDAY, January 30.

The Senate resumed the consideration of their amendments disagreed to by the House of Representatives to the bill, entitled "An act making appropriations for the Military Establishment of the United States during the year 1804;" and,

*Resolved*, That they ask a conference thereon, and that Messrs. JACKSON and BRADLEY be managers at the same, on the part of the Senate.

Agreeably to the order of the day, the Senate resumed the consideration of the bill in relation to the Navy pension fund; and having amended the bill,

*Ordered*, That it pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House agree to some, and disagree to other, amendments of the Senate, to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes."

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and a motion was made to amend the bill, by adding the following to the new section, adopted as section eighth:

"And be it further enacted, That no male person brought into said Territory of Louisiana, from any parts of the United States or Territories thereof, or from any province or colony of America belonging to any foreign Prince or State, after the — day of — next, ought or can be held by law to serve for more than the term of one year, any person as a servant, slave, or apprentice, after he attains the age of twenty-one years; nor female in like manner, after she attains the age of eighteen years,

unless they are bound by their own voluntary act, after they arrive to such age, or bound by law for the payment of debts, damages, fines, or costs: *Provided*, That no person held to service or labor in either of the States or Territories aforesaid, under the laws thereof, escaping into said Territory of Louisiana, shall, by anything contained herein, be discharged from such service or labor, but shall be delivered up in the manner prescribed by law."

It passed in the negative—yeas 11, nays 17, as follows:

**YEAS**—Messrs. Bradley, Brown, Ellery, Hillhouse, Logan, Olcott, Plumer, Potter, Israel Smith, Wells, and Worthington.

**NAYS**—Messrs. Adams, Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Condit, Dayton, Franklin, Jackson, Maclay, Nicholas, Pickering, John Smith, Samuel Smith, Venable, and White.

A motion was made to amend the bill, by adding to the end of section eighth, last adopted, the following:

"That it shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place within the limits of the United States, or cause to, or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing any slave or slaves, which shall have been imported since the — day of — into any port or place within the limits of the United States, from any port or place without the limits of the United States; and every person so offending and being thereof convicted, before any court within the said Territory having competent jurisdiction, shall forfeit and pay, for each and every such slave so imported or brought, the sum of — dollars; one moiety for the use of the person or persons who shall sue for the same. And no slave or slaves shall directly or indirectly be introduced into said Territory, except by a person or persons removing into said territory for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall thereupon be entitled to and receive his or her freedom."

And a division was called for, and that the question be taken on the first proposition, ending with the words, "sue for the same:" and, on the question to agree to this first division of the amendment it passed in the affirmative—yeas 21, nays 7, as follows:

**YEAS**—Messrs. Anderson, Armstrong, Bradley, Breckenridge, Brown, Cocke, Franklin, Hillhouse, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, Potter, I. Smith, John Smith, Venable, Wells, White, and Worthington.

**NAYS**—Messrs. Adams, Baldwin, Condit, Dayton, Ellery, Jackson, and Samuel Smith.

A motion was made to strike out all that follows the word "and," in the second division of the amendment, for the purpose of a further amendment; and, after debate, the consideration of the subject was postponed.

A message from the House of Representatives informed the Senate that the House agree to the conference desired by the Senate on the amendments of the Senate to the bill, entitled "An act making appropriations for the Military Establish-

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ment of the United States during the year 1804," and have appointed managers on their part.

After the adjournment of the High Court of Impeachments to 12 o'clock to-morrow, the Senate adjourned.

## TUESDAY, January 31.

The Senate took into consideration their amendments, disagreed to by the House of Representatives to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes." Whereupon,

*Resolved*, That they do insist on their amendments disagreed to, ask a conference thereon, and that Messrs. BRECKENRIDGE, DAYTON, and ANDERSON, be the managers at the same on the part of the Senate.

The bill in relation to the Navy pension fund was read the third time, and passed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to an act, entitled 'An act to incorporate the inhabitants of the City of Washington, in the District of Columbia;'" in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and a motion was made to strike out the last division of the amendment proposed yesterday, to wit :

"And no slave or slaves shall, directly or indirectly, be introduced into said Territory except by a person or persons removing into said Territory for actual settlement, and being, at the time of such removal, *bona fide* owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall, thereupon, be entitled to, and receive, his or her freedom;" and to insert the following :

"No slave shall be admitted into the said Territory from the United States or their territories, who shall not be the property of some person *bona fide* removing from the United States into the said Territory, and making an actual settlement therein, or who shall not have passed by descent or devise to the person or persons claiming the same, and residing within the said Territory, from some person or persons deceased in some one of the United States or their territories; and every slave who shall be brought into said Territory, otherwise than is hereby permitted, shall be forfeited, and may be recovered by any person who shall sue for the same; and the person or persons offending herein shall moreover forfeit and pay — dollars for every slave so brought in, to be recovered by action of debt in any court having jurisdiction thereof; one moiety to the use of the United States, and the other moiety to the use of the person who shall sue for the same. And in any action instituted for the recovery of the penalty aforesaid, the person or persons sued may be held to special bail."

And a division of the question was called for, and that it be taken on striking out; and, on the

question, shall the words be stricken out? It passed in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Condit, Jackson, Nicholas, John Smith, Samuel Smith, Stone, Venable, and Wells.

NAYS—Messrs. Adams, Bradley, Brown, Ellery, Franklin, Hillhouse, Logan, Maclay, Olcott, Pickering, Plumer, Potter, Israel Smith, Worthington, and Wright.

## WEDNESDAY, February 1.

The bill yesterday brought up from the House of Representatives for concurrence was read, and ordered to the second reading.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and on motion, to agree to the last division of the amendment proposed on the 30th ultimo, amended as follows:

"And no slave or slaves shall, directly or indirectly, be introduced into the said Territory except by a citizen of the United States, removing into said Territory for actual settlement, and being, at the time of such removal, *bona fide* owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall thereupon be entitled to, and receive, his or her freedom."

It passed in the affirmative—yeas 18, nays 11, as follows:

YEAS—Messrs. Armstrong, Bradley, Breckenridge, Brown, Cocke, Condit, Franklin, Hillhouse, Logan, Maclay, Olcott, Plumer, Potter, S. Smith, Wells, White, Worthington, and Wright.

NAYS—Messrs. Adams, Anderson, Baldwin, Dayton, Ellery, Jackson, Nicholas, Pickering, J. Smith, Stone, and Venable.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

## THURSDAY, February 2.

Mr. JACKSON, from the committee to whom was referred, on the 26th of January last, the bill, entitled "An act for the better direction of the collectors of the respective ports of the United States, in granting seamen certificates of citizenship," reported it without amendment.

The bill, entitled "An act supplementary to an act, entitled 'An act to incorporate the inhabitants of the City of Washington, in the District of Columbia,'" was read the second time and referred to Messrs. ANDERSON, STONE, and WRIGHT, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to the conference proposed by the Senate on their amendments to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," and have appointed managers on their part. They have passed a bill entitled "An act continuing for a limited time the salaries of the officers of Government therein mentioned;" in which they desire the concurrence of the Senate.

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The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and on motion, to strike out the eighth section of the original bill, amended as follows:

"SEC. 8. The residue of the province of Louisiana, ceded to the United States, shall remain under the same name and form of government as heretofore, save only that the executive and judicial powers exercised by the former Government of the province shall now be transferred to a Governor, to be appointed by the President of the United States: and that the powers exercised by the Commandant of a post or district shall be hereafter vested in a civil officer, to be appointed by the President in the recess of the Senate, but to be nominated at the next meeting thereof for their advice and consent; under the orders of which Commandant the officers, troops, and militia, of his station, shall be; who, in cases where the military have been used, under the laws heretofore existing, shall act by written orders and not in person; and the salary of the said officers, respectively, shall not exceed the rate of — dollars per annum. The President of the United States, however, may unite the districts of two or more Commandants of posts into one, where their proximity or ease of intercourse will permit without injury to the inhabitants thereof. The Governor shall receive an annual salary of — dollars, payable quarter-yearly at the Treasury of the United States:"

It passed in the affirmative—yeas 16, nays 9, as follows:

YEAS—Messrs. Adams, Anderson, Armstrong, Breckenridge, Cocke, Condit, Franklin, Hillhouse, Maclay, Olcott, Pickering, Plumer, J. Smith, Stone, Venable, and Worthington.

NAYS—Messrs. Baldwin, Brown, Dayton Ellery, Jackson, Nicholas, Potter, S. Smith, and Wright.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

#### FRIDAY, February 3.

The bill yesterday brought up from the House of Representatives for concurrence, entitled "An act continuing for a limited time the salaries of the officers of Government therein mentioned," was read, and, by unanimous consent, the rule was dispensed with and the bill was read the second time.

*Ordered*, That it be referred to Messrs. BRADLEY, BALDWIN, and JACKSON, to consider and report thereon to the Senate.

Mr. WRIGHT presented the memorial of John Hoskins Stone, late a Colonel of the first Maryland regiment, in the service of the United States in the Revolutionary war, in which he was wounded and rendered incapable of bodily exertions; and praying to be allowed the compensation of five years whole pay, in lieu of ten years half pay, together with the bounties in land to which his rank in the army entitle him, and such other emoluments as have been granted to officers in similar circumstances; and the memorial was read, and referred to Messrs. WRIGHT, ARMSTRONG, and ADAMS, to consider and report thereon to the Senate.

*Ordered*, That the petition of Elijah Brainard, presented on the 29th of November last, be referred to the same committee, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House agree to the amendment of the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," with an amendment, in which they desire the concurrence of the Senate.

The Senate took into consideration the amendment to their amendment to the bill last mentioned, and it was referred to Messrs. BRECKENRIDGE, STONE, and S. SMITH, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and, after progress, the Senate adjourned.

#### MONDAY, February 6.

THOMAS SUMTER, from the State of South Carolina, attended on the 4th instant, and took his seat this day in Senate.

Mr. TRACY presented the petition of Oliver Pollock, praying the final liquidation and settlement of claims grounded on his services, sufferings, and advances, as a public agent of the United States, during the Revolutionary war with Great Britain; and the petition was read and referred to Messrs. TRACY, FRANKLIN, and BALDWIN, to consider and report thereon to the Senate.

Agreeably to leave obtained on the 14th of December last, Mr. WORTHINGTON brought in a bill to ascertain the boundary of the lands reserved by the State of Virginia, for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands; and the bill was read.

*Ordered*, That it pass to the second reading.

The PRESIDENT communicated the report of the Commissioners of the Sinking Fund, stating that the measures which have been authorized by the board, subsequent, to their report of the 5th of February, 1803, so far as the same have been completed, are fully detailed in the report of the Secretary of the Treasury to the board, dated the 3d day of the present month, and in the statements therein referred to, and now transmitted; and praying that they be received as part of this report; and the documents were read, and ordered to lie for consideration.

*Ordered*, That the consideration of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof, be postponed until to-morrow.

The Senate resumed the second reading of the bill, declaring the assent of Congress to "An act of the General Assembly of the State of North Carolina;" and a motion was made to amend the bill; and, after debate, the further consideration thereof was postponed until to-morrow.

Mr. JACKSON reported, from the managers at the conference, on the bill, entitled "An act ma-

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king appropriations for the Military Establishment of the United States, in the year 1804, that they had agreed on a report, that the House of Representatives recede from their disagreement to the amendments of the Senate to the said bill.

The Senate resumed the second reading of the bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*;" and after debate, the Senate adjourned.

## TUESDAY, February 7.

The bill to ascertain the boundary of the lands reserved by the State of Virginia for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands, was read the second time, and referred to Messrs. WORTHINGTON, ANDERSON, and TRACY, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House recede from their disagreement to the first and second amendments of the Senate, to the bill, entitled "An act making appropriations for the Military Establishment of the United States in the year 1804;" and insist on their disagreement to the last amendment to the said bill. They recede from their disagreement to the seventeenth amendment of the Senate to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes; and agree thereto. They recede, in part, from their disagreement to the first and thirteenth amendments to the said bill, and agree thereto under the modifications proposed by the joint committee of conference, with a further amendment to the first section, in which they desire the concurrence of the Senate.

The Senate resumed the second reading of the bill erecting Louisiana in two Territories, and making provision for the temporary government thereof; and agreed to sundry amendments; and on motion to agree to a further amendment, as follows:

"SEC. 7. All free male white persons, who are housekeepers, and who shall have resided one year at least in the said Territory, shall be qualified to serve as grand or petit jurors in the courts of the said Territory; and they shall, until the Legislature thereof shall otherwise direct, be selected in such manner as the judges of the said courts, respectively, shall prescribe, so as to be most conducive to an impartial trial, and to be least burdensome to the inhabitants of the said Territory."

A motion was made to strike out from the beginning, to the words "and they;" inclusive, for the purpose of inserting, "persons to serve as grand and petit jurors in the courts of the said Territory."

A division of the question was called for, and that it first be taken on striking out; and on the question, Shall these words be struck out? it was passed in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Adams, Bradley, Brown, Hillhouse, Logan, Olcott, Pickering, Plumer, John Smith, and Stone.

NAYS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Condit, Ellery, Franklin, Jackson, Maclay, Nicholas, Potter, Samuel Smith, Sumter, Venable, Wells, Worthington, and Wright.

On the question to agree to the original motion, it passed in the affirmative—yeas 21, nays 7, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Samuel Smith, Stone, Sumter, Venable, Wells, Worthington, and Wright.

NAYS—Messrs. Adams, Bradley, Hillhouse, Olcott, Pickering, Plumer, and John Smith.

Mr. NICHOLAS gave notice that he should tomorrow, at eleven o'clock, move for a call of the House.

## WEDNESDAY, February 8.

Mr. BRECKENRIDGE, from the managers appointed on the part of the Senate, to confer with those of the House of Representatives, on their disagreement to the amendments of the Senate to the bill, entitled "An act giving effect to the laws of the United States, within the territories ceded to the United States by the treaty of the 30th of April 1803, between the United States and the French Republic, and for other purposes," reported that, having attended the conference, the managers had agreed to sundry modifications to the said amendments, which were read and in part adopted; and

The Senate took into consideration the further amendment proposed by the House of Representatives to the modification agreed on by the joint committee of conference; and,

*Ordered*, That it be postponed until to-morrow.

Mr. MACLAY presented the petition of William T. Smith, now a citizen of the State of Pennsylvania, stating that he was a resident in the island of St. Eustatia, during the Revolutionary war, and shipped for the United States large quantities of woolen goods necessary for public supply; and which he sold for that purpose and received his compensation therefor in loan office certificates, which were mislaid or lost by casualty; and praying that provision may be made by law, that he may be enabled to fund the amount; and the petition was read, and ordered to lie for consideration.

The Senate took into consideration their amendment, disagreed to by the House of Representatives, to the bill, entitled, "An act making appropriations for the Military Establishment of the United States in the year 1804;" and

*Resolved*, That they do recede therefrom.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and having adopted a further amendment,

*Ordered*, That the bill, as amended, be printed for the use of the Senate.

The Senate resumed the second reading of the



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bill, entitled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States;'" and

*Ordered*, That it pass to the third reading.

The Senate resumed the second reading of the bill, entitled "An act for the better direction of the collectors of the respective ports of the United States, in granting seamen certificates of citizenship; and on the question to agree to the third reading of this bill it passed in the negative.

So the bill was lost.

The Senate took into consideration the amendment proposed on the sixth instant, to the bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina.

*Resolved*, That the further consideration of the bill, together with the amendment, be postponed until the first Monday of December next.

THURSDAY, February 9.

Mr. BRADLEY, from the committee to whom was referred, on the third instant, the bill, entitled "An act continuing for a limited time the salaries of the officers of the Government therein mentioned," reported the same with an amendment.

The Senate resumed the consideration of the modifications reported by the managers of the conference, on the first amendment of the Senate to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes," together with the resolutions of the House of Representatives on the amendments.

*Resolved*, That they agree to the amendment proposed by the House of Representatives to their first amendment, in the following words, viz: At the end of the 25th line add "An act to establish a Mint, and regulate the coins of the United States;" "An act regulating foreign coins, and for other purposes; and the acts supplementary to, and amendatory of, the two last mentioned acts." They disagree to the proviso proposed to be added at the end of the same amendment, and they adhere to their first amendment, as above amended.

*Resolved*, That they so far recede from their other amendments, disagreed to by the House of Representatives, as to agree to the modifications reported by the committee of conference thereon.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and providing for the temporary government thereof; and sundry motions for further amendment having been read,

*Ordered*, That they lie for consideration.

After the consideration of the Executive business, and the adjournment of the High Court of Impeachments, the Senate adjourned.

FRIDAY, February 10.

Mr. JOHN SMITH presented the petition of Nancy Flinn, of Ohio, stating that her husband was

killed by the Indians, while proceeding with a flag to the Indian territories, under the command of Major Truman, in the year 1798, and praying that the same relief may be extended to her orphan children as was provided for those of Major Truman; and the petition was read, and ordered to lie for consideration.

Mr. ADAMS presented the memorial of William A. Barron, a Captain in the Corps of Engineers, in the service of the United States, praying the allowance of his account, amounting to \$109 50, for extra services, in executing certain instructions relative to the Corps of Engineers and Military Academy; and the memorial was read.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and making temporary provision for the government thereof; and, on motion of Mr. ANDERSON, to amend the bill, by adding the following after the eleventh section:

"As soon as there shall be — thousand free white male inhabitants, of full age, in the Territory, upon giving proof thereof to the Governor, they shall receive authority, with time and place, to elect Representatives from their counties or townships, to represent them in the General Assembly: *Provided*, That for every five hundred free, white, male inhabitants there shall be one Representative; and so on progressively with the number of free, white, male inhabitants, shall the right of representation increase, until the number of Representatives shall amount to —, after which the number and proportion of Representatives shall be regulated by the Legislature: *Provided*, That no person be eligible, or qualified to act, as a Representative, unless he shall have previously resided three years within the limits of the said Territory; and shall likewise hold in his own right, in fee simple, one hundred acres of land, or, in like manner, possess a house and lot in the city of New Orleans: *Provided, also*, That a freehold of fifty acres of land in the Territory, and a residence within its limits for one year previous to its formation, shall be necessary to qualify a man as an Elector or a Representative.

"SEC. —. The Representatives thus elected shall serve for the term of two years; and, in case of the death of a Representative, or removal from office, the Governor shall issue a writ to the county or township for which he is a member, to elect another in his stead, to serve for the residue of the term.

"SEC. —. The General Assembly, or Legislature, shall consist of the Governor, Legislative Council, and a House of Representatives; the Legislative Council shall consist of — members, to continue in office five years, unless removed by the President, any — of whom to be a quorum; and the members of the Council shall be nominated and appointed in the following manner, to wit: As soon as Representatives shall be elected, the Governor shall appoint a time and place for them to meet together, and when met, they shall nominate — persons, residents in the Territory, and each possessed of a freehold in — hundred acres of land, and return their names to the President, — of whom he shall nominate, and, by and with the advice and consent of the Senate, appoint and commission; and, whenever a vacancy shall happen in the Council, by death, resignation, or removal from office, the House of Representatives shall nominate two persons, qualified as aforesaid, for each vacancy, and return their

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names to the President, one of whom he shall, in manner aforesaid, appoint and commission for the residue of the term; and every five years, four months at least before the expiration of the time of service of the members of Council, the said House shall nominate — persons, qualified as aforesaid, and return their names to the President, — of whom he shall, in manner aforesaid, appoint and commission to serve as members of Council five years, unless sooner removed. And the Governor, Legislative Council, and House of Representatives, shall have authority to make laws, in all cases, for the good government of the district, not repugnant to, nor inconsistent with, the Constitution and laws of the United States. And all bills, having passed by a majority in the House of Representatives, and by a majority in the Council, shall be referred to the Governor for his assent: but no bill or Legislative act whatever shall be of any force without his consent. The Governor shall have power to convene, prorogue, and dissolve the General Assembly when, in his opinion, it shall be expedient."

And, on the question to agree to this amendment, it passed in the negative—yeas 5, nays 19, as follows:

YEAS—Messrs. Adams, Anderson, Cocke, Condit, and Worthington.

NAYS—Messrs. Armstrong, Baldwin, Bradley, Breckenridge, Brown, Dayton, Ellery, Franklin, Hillhouse, Jackson, Olcott, Pickering, Potter, John Smith, Samuel Smith, Stone, Sumter, Venable, and Wright.

And, having gone through the bill as in Committee of the Whole,

*Ordered*, That the consideration thereof be further postponed.

On motion,

*Ordered*, That the Secretary subscribe for one copy of the plan and view of Louisiana, by T. L. Boquet de Woiseri, to be hung up in the Senate Chamber, the subscription money to be defrayed by the Secretary, from the contingent fund of the Senate.

#### MONDAY, February 13.

Mr. JACKSON gave notice that he should, to-morrow, ask leave to bring in a bill to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on St. Simon's bar.

The Senate resumed the second reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and, on motion to amend the 4th section, by striking out the words "by the Governor, from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory or the United States," for the purpose of inserting:

"The Governor shall lay off the said Territory into twenty-four convenient districts, from each of which the free male householders, residents therein, shall annually elect one discreet person, who shall have resided one year, at least, therein, and who holds no office of profit under the Territory, or the United States. The Governor shall, until the Legislature of the Territory shall otherwise direct, prescribe the time, place, and

manner, of holding said elections, and of making the returns thereof; and in case the inhabitants of any of the said districts shall refuse or neglect to make an election, the Governor shall then select from each district one fit person qualified as aforesaid."

It passed in the negative—yeas 13, nays 13, as follows:

YEAS—Messrs. Adams, Anderson, Breckenridge, Cocke, Condit, Hillhouse, Maclay, Pickering, Plumer, John Smith, Venable, Wells, and Worthington.

NAYS—Messrs. Armstrong, Baldwin, Bradley, Brown, Dayton, Franklin, Jackson, Logan, Nicholas, Potter, Samuel Smith, Sumter, and Wright.

And, having agreed to sundry amendments,

*Ordered*, That the bill pass to the third reading as amended.

The Senate resumed the consideration of the amendment reported by the committee to the bill, entitled "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned;" and, on the question to agree to the amendment, it passed in the negative—yeas 11, nays 16, as follows:

YEAS—Messrs. Anderson, Bradley, Condit, Dayton, Jackson, Maclay, Potter, Israel Smith, John Smith, Wells, and Wright.

NAYS—Messrs. Armstrong, Baldwin, Breckenridge, Brown, Franklin, Hillhouse, Logan, Nicholas, Olcott, Pickering, Plumer, Samuel Smith, Stone, Sumter, Venable, and Worthington.

*Ordered*, That this bill pass to a third reading.

Mr. SAMUEL SMITH notified the Senate that he would, to-morrow, call up the bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the Henrick."

After the adjournment of the High Court of Impeachments, the Senate adjourned.

#### TUESDAY, February 14.

The Senate resumed the second reading of the bill, entitled "An act to enable the President of the United States to make restitution to the owners of the Danish brigantine called the Henrick;" and, on the question, Shall this bill pass to the third reading? it was determined in the negative. So the bill was lost.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina;" a bill, entitled "An act to reduce the Marine Corps of the United States;" a bill, entitled "An act for the relief of Samuel Corp;" also, a resolution for the appointment of a committee to join with such committee as the Senate may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same; in which bills and resolution, respectively, they desire the concurrence of the Senate.

The bill, entitled "An act for the relief of Samuel Corp," was read, and ordered to the second reading.

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The bill, entitled "An act to reduce the Marine Corps of the United States," was read. On the question, Shall this bill pass to the second reading? it was determined in the negative. So the bill was lost.

The bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina," was read, and ordered to the second reading.

Agreeably to notice given yesterday, Mr. JACKSON requested and obtained leave to bring in a bill to erect a light-house on the south end of St. Simon's island, in the State of Georgia," and for the placing of a buoy or buoys on St. Simon's bar; and the bill was read, and ordered to a second reading.

### WEDNESDAY, February 15.

The bill to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on St. Simon's bar, was read the second time, and referred to Messrs. JACKSON, PICKERING, and BALDWIN, to consider and report thereon to the Senate.

The bill, entitled "An act for the relief of Samuel Corp," was read the second time, and referred to Messrs. SAMUEL SMITH, BRECKENRIDGE, and BALDWIN, to consider and report thereon to the Senate.

The bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina, was read the second time, and referred to Messrs. SUMTER, FRANKLIN, and BALDWIN, to consider and report thereon to the Senate.

The Senate took into consideration the resolution of the House of Representatives for the appointment of a joint committee to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same; and

*Resolved*, That they do concur therein, and that Messrs. BRECKENRIDGE, ANDERSON, and NICHOLAS, be the committee on the part of the Senate.

On motion, by Mr. JACKSON, that the Senate do adopt the following resolution:

*Resolved*, That the Secretary of the Navy be directed to report to this House the present general statement of the receipts and expenditures of the commanding officer of the Marine Corps:

*Ordered*, That this motion lie for consideration.

Mr. SAMUEL SMITH, from the committee to whom the subject was referred, on the 19th of January last, requested and obtained leave to report a bill relating to the recording, registering, and enrolling of ships and vessels in the district of Orleans; and the bill was read, and ordered to the second reading.

Mr. ANDERSON, from the committee to whom was referred, on the 2d instant, the bill, entitled "An act supplementary to an act, entitled 'An act to incorporate the inhabitants of the City of Washington, in the District of Columbia,'" reported sundry amendments thereto; which were read.

*Ordered*, That they lie for consideration.

The PRESIDENT communicated the report of the Secretary for the Department of War, on the memorial of William A. Barron; made in conformity to the order of the Senate of the 10th instant; and the report was read.

*Ordered*, That it be referred, together with the petition and papers accompanying it, to Messrs. ADAMS, BRADLEY, and DAYTON, to consider and report thereon to the Senate.

The bill, entitled "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned," was read the third time; and on the question to agree to the final passage of this bill, it was determined in the affirmative, — yeas 20, nays 7, as follows:

YEAS—Messrs. Adams, Anderson, Armstrong, Baldwin, Breckenridge, Brown, Cocke, Dayton, Franklin, Logan, Nicholas, Olcott, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Sumter, Venable, and Wright.

NAYS—Messrs. Condit, Ellery, Hillhouse, Maclay, Plumer, Tracy, and Wells.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act authorizing the appointment of commissioners to explore the routes most eligible for opening certain public roads," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The Senate proceeded to the third reading of the bill, entitled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States;'" and, sundry amendments having been proposed,

*Ordered*, That the bill, together with the proposed amendments, be referred to Messrs. BRADLEY, TRACY, ANDERSON, ARMSTRONG, and VENABLE, to consider and report thereon to the Senate.

They proceeded to the third reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and sundry amendments were adopted; and, on motion, the Senate adjourned.

### THURSDAY, February 16.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 15th instant, the bill, entitled "An act for the relief of Samuel Corp," reported it without amendment.

The bill, entitled "An act authorizing the appointment of commissioners to explore the routes most eligible for opening certain public roads," was read the second time, and referred to Messrs. JOHN SMITH, ANDERSON, and BRECKENRIDGE, to consider and report thereon to the Senate.

The bill relating to the recording, registering, and enrolling of ships and vessels in the district of Orleans, was read the second time.

The Senate resumed the third reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and, having agreed to sundry further amendments, on motion, the Senate adjourned.

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FRIDAY, February 17.

The Senate resumed the second reading of the bill relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans.

*Ordered*, That this bill pass to a third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend the charter of Alexandria," in which they desire the concurrence of the Senate.

The Senate resumed the third reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and on motion to amend the bill, by striking out of section 10th, the words:

"And no slave or slaves shall, directly or indirectly, be introduced into said Territory, except by a citizen of the United States removing into said Territory for actual settlement, and being at the time of such removal *bona fide* owner of such slave or slaves:"

It passed in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Anderson, Baldwin, Cocke, Dayton, Nicholas, John Smith, Stone, Venable, and Wright.

NAYS—Messrs. Armstrong, Bradley, Breckenridge, Brown, Condit, Ellery, Franklin, Hillhouse, Jackson, Logan, Maclay, Olcott, Plumer, Potter, Israel Smith, Samuel Smith, Sumter, Wells, and White.

On motion, to expunge from the same section, after the word "slaves," the words "and every slave imported or brought into said Territory, contrary to the provisions of this act, shall thereupon be entitled to and receive his or her freedom."

It passed in the negative—yeas 11, nays 17, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Dayton, Jackson, Nicholas, Stone, Sumter, and Venable.

NAYS—Messrs. Bradley, Brown, Condit, Ellery, Franklin, Hillhouse, Logan, Maclay, Olcott, Plumer, Potter, Israel Smith, John Smith, Samuel Smith, Wells, White, and Wright.

On motion to insert, in the same section, line 3d, after the word "States," the words "or from any State authorizing the importation of slaves from any foreign port or place:"

It passed in the negative—yeas 8, nays 13, as follows:

YEAS—Messrs. Brown, Hillhouse, Logan, Olcott, Plumer, John Smith, White, and Wright.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Maclay, Nicholas, Potter, Israel Smith, Samuel Smith, Sumter, and Venable.

And having further amended the bill, and filled the blanks, it was agreed that the question on its final passage be postponed until to-morrow.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

Information having been received some time ago that the public lands in the neighborhood of Detroit required particular attention, the agent appointed to transact business with the Indians in that quarter was instructed

to inquire into and report the situation of the titles and occupation of the lands, private and public, in the neighboring settlements. His report is now communicated, that the Legislature may judge how far its interposition is necessary to quiet the legal titles, confirm the equitable, to remove the past and prevent future intrusions, which have neither law nor justice for their basis.

TH. JEFFERSON.

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The Message was read, and, with the report therein referred to, ordered to lie for consideration.

SATURDAY, February 18.

The bill entitled "An act to amend the charter of Alexandria," was read, and, by unanimous consent, the rule was dispensed with, and the bill was read the second time, and referred to Messrs. WRIGHT, VENABLE, and ANDERSON, to consider and report thereon to the Senate.

Mr. JACKSON, from the committee to whom was referred, on the 15th instant, the bill to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on St. Simon's bar, reported amendments thereto; which were read.

*Ordered*, That they lie for consideration.

The bill relating to the recording and enrolling of ships or vessels in the district of Orleans, was read the third time and amended.

*Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans."

*Ordered*, That the petition of Nancy Flinn, presented on the 10th instant, be referred to Messrs. JOHN SMITH, LOGAN, and BRECKENRIDGE, to consider and report thereon to the Senate.

The Senate resumed the third reading of the bill erecting Louisiana into two Territories, and making provision for the temporary government thereof; and on the question to agree to the final passage of this bill, it was determined in the affirmative—yeas 20, nays 5, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, John Smith, Samuel Smith, Sumter, Venable and Wright.

NAYS—Messrs. Adams, Hillhouse, Olcott, Plumer, and Stone.

So it was *Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act erecting Louisiana into two Territories, and making provision for the temporary government thereof."

Mr. NICHOLAS gave notice that he should, on Monday next, ask leave to bring in a bill to amend an act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President.

Mr. LOGAN notified the Senate he should, on Monday next, ask leave to bring in a bill laying a duty on slaves imported into the United States.

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MONDAY, February 20.

On motion, to correct the Journal of the 18th instant, and to expunge therefrom the following words, to wit:

"Mr. LOGAN notified the Senate that he should, on Monday next, ask leave to bring in a bill laying a duty on slaves imported into the United States."

It passed in the negative—yeas 5, nays 21, as follows:

YEAS—Messrs. Adams, Baldwin, Bradley, Plumer, and Tracy.

NAYS—Messrs. Anderson, Breckenridge, Brown, Cocke, Condit, Dayton, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Sumter, Venable, White, Worthington, and Wright.

Mr. WORTHINGTON, from the committee to whom was referred, on the 7th instant, the "bill to ascertain the boundary of the lands reserved by the State of Virginia for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands," reported it without amendment.

*Ordered*, That this bill pass to a third reading.

The Senate took into consideration the amendments reported by the committee to the bill to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on St. Simon's bar; and the amendments were adopted.

*Ordered*, That the bill pass to the third reading as amended.

Mr. BRECKENRIDGE reported, from the committee to whom was referred, on the third instant, the amendment of the House of Representatives to the amendment of the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha." Whereupon,

*Resolved*, That the Senate do agree to the amendment of the House of Representatives to their amendment of the said bill.

Mr. BRECKENRIDGE reported, from the committee appointed on the 15th instant, jointly with the committee appointed on the part of the House of Representatives, to consider what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same; and the report was read.

*Ordered*, That it lie for consideration.

The Senate took into consideration the amendments reported to the bill, entitled "An act supplementary to the act, entitled 'An act to incorporate the inhabitants of the City of Washington, in the District of Columbia,'" and having agreed thereto, and further amended the bill.

*Ordered*, That it pass to the third reading as amended.

Mr. VENABLE presented the memorial of Richard Soderstrom, agent for and on behalf of the owners of the Danish brigantine called the Henrick, and her cargo, heretofore commanded by Peter Scheel, a subject of Denmark, captured October, 1799, by a French privateer, and recaptured on the 10th of the same month by an American armed

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vessel, and carried into and condemned in the island of St. Christopher's, (as he states,) in violation of the law of nations, and praying such justice may be done in the premises as will protect the property and commerce of a neutral nation, which has always respected the American flag; and the memorial was read.

*Ordered*, That this memorial lie for consideration.

The Senate took into consideration the motion made on the 16th of December last, for a committee to be appointed to take into consideration the expediency of establishing a uniform law on the subject of bankruptcy throughout the United States; and, on the question to agree thereto, it passed in the negative.

The Senate took into consideration the motion made on the 15th instant, that it be

"*Resolved*, That the Secretary of the Navy be directed to report to this House the present general statement of the receipts and expenditures of the commanding officer of the Marine Corps."

And, on the question to adopt this resolution, it passed in the affirmative—yeas 21, nays 10, as follows:

YEAS—Messrs. Anderson, Armstrong, Bradley, Cocke, Dayton, Hillhouse, Jackson, Logan, Olcott, Pickering, Plumer, Potter, Israel Smith, John Smith, Saml. Smith, Stone, Sumter, Tracy, Wells, White, and Wright.

NAYS—Messrs. Baldwin, Breckenridge, Brown, Condit, Ellery, Franklin, Maclay, Nicholas, Venable, and Worthington.

*Ordered*, That the committee appointed on the 19th December last, to consider whether any, and, if any, what, amendments ought to be made to the "Act to prevent the importation of certain persons into certain States, by the laws whereof their admission is prohibited," be discharged.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

TUESDAY, February 21.

Mr. WRIGHT, from the committee to whom was referred, on the 18th instant, the bill, entitled "An act to amend the charter of Alexandria," reported the bill with sundry amendments, which were adopted, and the bill was further amended.

*Ordered*, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take the depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," in which they desire the concurrence of the Senate.

The bill, entitled "An act supplementary to the act, entitled 'An act to incorporate the inhabitants of the City of Washington, in the District of Columbia,'" was read the third time.

*Resolved*, That this bill do pass with amendments.

The bill to erect a light-house on St. Simon's

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island, in the State of Georgia, and for the placing of a buoy or buoys on St. Simon's bar, was read the third time; and the title having been amended, and the blank filled,

*Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be "An act to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on or near St. Simon's bar."

The bill to ascertain the boundary of the lands reserved by the State of Virginia for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands, was read the third time; and the title having been amended, and the blanks filled,

*Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act to ascertain the boundary of the lands reserved by the State of Virginia, northwest of the river Ohio, for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands."

On motion, it was

*Resolved*, That a committee be appointed to examine what amendments, if any, are necessary to be made to the act, entitled "An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of President and Vice President, and that they have leave to report by bill or otherwise; and that Messrs. NICHOLAS, BALDWIN, BRECKENRIDGE, STONE, and ANDERSON, be this committee.

The Senate resumed the second reading of the bill, entitled "An act for the relief of Samuel Corp;," and an amendment thereto was adopted; and, after debate, the Senate adjourned.

## WEDNESDAY, February 22.

Mr. BRADLEY, from the committee to whom was referred, on the 15th instant, the bill, entitled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States,' together with the amendments proposed thereto, reported the bill amended.

*Ordered*, That it lie for consideration.

The bill, from the House of Representatives, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take the depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," was read.

*Ordered*, That it pass to a second reading,

The Senate resumed the second reading of the bill, entitled "An act for the relief of Samuel Corp;," and,

*Ordered*, That this bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making appropriations for the support of Government for the year 1804," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

I communicate to Congress for their information a report of the Surveyor of the Public Buildings of Washington, stating what has been done under the act of the last session concerning the city of Washington, on the Capitol and other public buildings, and the highway between them. TH. JEFFERSON.

FEBRUARY 22, 1804.

The Message and report therein referred to were read and ordered to lie for consideration.

The bill, entitled "An act to amend the charter of Alexandria," was read the third time, and further amended.

*Resolved*, That this bill pass with amendments.

Mr. SUMTER, from the committee to whom was referred, on the 15th instant, the bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina," reported the bill with amendments.

*Ordered*, That they lie for consideration.

## THURSDAY, February 23.

JOHN SMITH, appointed a Senator by the Legislature of the State of New York, in the room of De Witt Clinton, took his seat in the Senate, and his credentials were read, and the oath prescribed by law was administered to him by the President.

The bill, entitled "An act for the relief of Samuel Corp;," was read the third time.

*Resolved*, That this bill pass with amendments.

On motion,

*Resolved*, That this House will to-morrow proceed to elect a doorkeeper, or assistant to James Mathers, Sergeant-at-arms, in the room of James Mathers, jr., deceased.

The bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take the depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," was read the second time, and referred to Messrs. FRANKLIN, VENABLE, and I. SMITH, to consider and report thereon to the Senate.

The bill, entitled "An act making appropriations for the support of Government for the year 1804," was read the second time, and referred to Messrs. NICHOLAS, J. SMITH, of New York, and ELLERY, to consider and report thereon to the Senate.

On motion, that it be

*Resolved*, That the President be requested to communicate to the Senate the measures which have been taken by the Executive, and the conduct of the commanders of the public armed vessels of the United States in the execution of those measures, in pursuance of an act for the protection of the commerce and seamen of the United States against the Tripolitan cruisers, passed February 6, 1802; the expenses attending the same, and, if any, what, further provision may be necessary, on the part of Congress, to bring the existing war with Tripoli to a speedy and honorable termination:

*Ordered*, That this motion lie for consideration.

The Senate took into consideration the amend-

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ments reported by the committee to the bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina;" and the amendments were adopted.

*Ordered*, That the bill pass to the third reading as amended.

On motion,

*Ordered*, That the memorial of Richard Soderstrom, presented on the 20th instant, be referred to Messrs. VENABLE, S. SMITH, and BRECKENRIDGE, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to allow drawbacks of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned; also, a bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" in which several bills they desire the concurrence of the Senate. They concur in the bill sent from the Senate, entitled "An act relating to the recording, registering, and enrolling of ships and vessels in the district of Orleans," with amendments; in which they desire the concurrence of the Senate.

The two bills last brought up for concurrence, were read and ordered to the second reading.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act relating to the recording, registering, and enrolling of ships and vessels in the district of Orleans," and

*Resolved*, That they disagree to the first, but agree to the other amendments of the House of Representatives to the said bill.

FRIDAY, February 24.

Agreeably to the resolution of yesterday, the Senate proceeded to elect a doorkeeper, or assistant to James Mathers, Sergeant-at-Arms; and Henry Timms was appointed.

On motion,

*Ordered*, That the committee appointed 23d of October last, consisting of Messrs. TRACY, ANDERSON, and BALDWIN, for the revival of unfinished business, be discharged.

The PRESIDENT communicated the report of the Secretary for the Department of the Navy, made in pursuance of the resolution of the Senate of the 20th instant; and the report was read and ordered to lie for consideration.

The bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,' was read the second time, and referred to Messrs. DAYTON, JACKSON, and BRADLEY, to consider and report thereon to the Senate.

The bill, entitled "An act to allow drawbacks of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned," was read the second time, and referred to Messrs. SAMUEL SMITH, ELLERY, and WELLS, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to the bill, en-

titled "An act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States,'" and they were amended and adopted.

*Resolved*, That this bill do pass with amendments.

The bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina," was read the third time.

*Ordered*, That the further consideration thereof be postponed until to-morrow.

SATURDAY, February 25.

JOHN ARMSTRONG, appointed a Senator by the Legislature of the State of New York, in the room of Theodorus Bailey, took his seat in the Senate, and his credentials were read, and the oath prescribed by law was administered to him by the President.

Mr. S. SMITH, from the committee to whom was yesterday referred the bill, entitled "An act to allow drawbacks of duties on goods, wares, and merchandise, transported by land, in the case therein mentioned," reported it without amendment.

*Ordered*, That this bill pass to a third reading.

MONDAY, February 27.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina;" in which they desire the concurrence of the Senate.

The Senate resumed the third reading of the bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina;" and having further amended the bill,

*Resolved*, That it pass as amended.

The Senate resumed the second reading of the bill further to protect the seamen of the United States; and on motion to strike out of section 2d the words "while on passage to or from any port or place;" it passed in the negative—yeas 13, nays 17, as follows:

YEAS—Messrs. Adams, Baldwin, Condit, Dayton, Franklin, Nicholas, Olcott, Pickering, Samuel Smith, Stone, Venable, White, and Worthington.

NAYS—Messrs. Anderson, Armstrong, Bradley, Breckenridge, Brown, Cocke, Ellery, Hillhouse, Jackson, Logan, Maclay, Potter, John Smith of Ohio, John Smith of New York, Sumter, Wells, and Wright.

And sundry amendments having been agreed to,

*Ordered*, That the consideration of this bill be further postponed.

The Senate took into consideration the resolution moved for on the 23d instant, that the President of the United States be requested to communicate the measures that have been taken, in pursuance of the act, for the protection of the commerce and seamen of the United States against the Tripolitan cruisers, passed February 6, 1802; and on the question to agree to the resolution, it passed in the negative.

The bill entitled "An act to allow drawbacks



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of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned," was read the third time; and passed.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

#### TUESDAY, February 28.

The bill from the House of Representatives, entitled "An act declaring the assent of Congress, to an act of the General Assembly of the State of North Carolina," was read and ordered to the second reading.

Mr. LOGAN communicated a letter from the Speaker of the House of Representatives of the State of Pennsylvania, enclosing a resolution of that House on the subject of an uniform standard of weights and measures; which were read, and ordered to lie on the table.

*Ordered*, That the committee to whom was referred, on the 6th instant, the petition of Oliver Pollock be discharged.

Mr. JOHN SMITH, of Ohio, from the committee to whom was referred, on the 16th instant, the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads," reported amendments thereto, which were read; and, after debate,

*Ordered*, That the further consideration thereof be postponed.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act further to alter and establish certain post-roads, and for other purposes;" also, a bill, entitled "An act for the relief of George Lee Davidson;" in which bills they desire the concurrence of the Senate.

The two bills last mentioned in the message were read, and ordered to the second reading.

*Ordered*, That the committee appointed on the 4th of January last, on the memorial of the Washington Building Company, signed Daniel C. Brent and others, be discharged.

The Senate resumed the second reading of the bill further to protect the seamen of the United States, and a motion was made that the further consideration thereof be postponed to the first Monday in December next; and, after debate, and the adjournment of the High Court of Impeachments, the Senate adjourned.

#### WEDNESDAY, February 29.

The bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina," was read the second time, and referred to Messrs. COCKE, STONE, and TRACY, to consider and report thereon to the Senate.

The bill, entitled "An act for the relief of Geo. Lee Davidson," was read the second time, and referred to Messrs. TRACY, BRADLEY, and BALDWIN, to consider and report thereon to the Senate.

The bill, entitled "An act to alter and establish certain post roads, and for other purposes," was read the second time, and referred to Messrs. ANDERSON, JACKSON, and BRADLEY, to consider and

report thereon to the Senate; and that the report of the Postmaster General, of the 22d November last, be referred to the same committee.

Mr. FRANKLIN, from the committee to whom was referred, on the 23d instant, the bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," reported the bill without amendment.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia,'" in which they desire the concurrence of the Senate.

The bill last brought up for concurrence was read, and ordered to the second reading.

The Senate resumed the second reading of the bill further to protect the seamen of the United States; and on motion that the further consideration thereof be postponed until the first Monday in December next, it passed in the affirmative—yeas 21, nays 11, as follows:

YEAS—Messrs. Anderson, Baldwin, Brown, Cocke, Condit, Dayton, Franklin, Hillhouse, Jackson, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, Israel Smith, John Smith of Ohio, John Smith of New York, Venable, Wells, and White.

NAYS—Messrs. Armstrong, Bradley, Breckenridge, Ellery, Potter, Samuel Smith, Stone, Sumter, Tracy, Worthington, and Wright.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

I communicate, for the information of Congress, a letter stating certain fraudulent practices for monopolizing lands in Louisiana, which may perhaps require Legislative provisions.

FEB. 19, 1803.

TH. JEFFERSON.

The Message and letter therein referred to were read, and ordered to lie for consideration.

Mr. COCKE gave notice that he should to-morrow ask leave to bring in a bill to make compensation to the militia of Tennessee, who marched to Natchez under the command of Colonel George Doherty.

After the consideration of the Executive business, and the adjournment of the High Court of Impeachments, the Senate adjourned.

#### THURSDAY, March 1.

The bill, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia,'" was read the second time, and referred to Messrs. WORTHINGTON, ISRAEL SMITH, and WHITE, to consider and report thereon to the Senate.

*Ordered*, That the committee appointed on the 27th of October last on the petitions of Martha Seamans and others, be discharged, and that the petitions be referred to the committee last ap-

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pointed, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act declaring the assent of Congress to an act of the Legislature of Virginia therein mentioned;" a bill, entitled "An act altering the sessions of the district courts of the United States, for the districts of Virginia and Rhode Island;" and a bill, entitled "An act making an appropriation for carrying into effect the convention concluded between the United States and the King of Spain, on the 11th day of August, 1802;" in which bills they desire the concurrence of the Senate.

The bills were read, ordered to a second reading.

It was agreed, by unanimous consent, to dispense with the rule, and that the bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of Virginia therein mentioned," be now read the second time.

*Ordered,* That it be referred to Messrs. VENABLE, STONE, and NICHOLAS, to consider and report thereon to the Senate.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads; and, after debate,

*Ordered,* That the consideration thereof be postponed.

Agreeably to notice given yesterday, Mr. COCKE asked and obtained leave to bring in a bill to make compensation to the militia of Tennessee, who marched to Natchez under the command of Colonel George Doherty; and the bill was read, and ordered to the second reading.

Mr. BALDWIN gave notice that he would tomorrow ask leave to bring in a bill to amend the laws providing for the organization of the accounting officers of the Treasury, War, and Navy Departments.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

FRIDAY, March 2.

The Senate resumed the consideration of the motion made on the 4th January last, that it be

*Resolved,* That any Senator of the United States, having previously acted and voted as a member of the House of Representatives, on a question of impeachment, is thereby disqualified to sit and act in the same case, as a member of the Senate, sitting as a Court of Impeachment."

And, on the question to agree to this motion, it passed in the negative—yeas 8, nays 20, as follows:

YEAS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

NAYS—Messrs. Anderson, Baldwin, Bradley, Breckenridge, Cocke, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, Samuel Smith, Sumter, Venable, Worthington, and Wright.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

SATURDAY, March 3.

Mr. WORTHINGTON, from the committee to whom was referred, on the 1st instant, the bill, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British provinces of Canada and Nova Scotia,'" reported the same without amendment.

Mr. NICHOLAS, from the committee to whom was referred, on the 23d January, the bill, entitled "An act making appropriations for the support of Government for the year 1804," reported the bill with amendments.

The bill, entitled "An act altering the sessions of the district courts of the United States for the districts of Virginia and Rhode Island," was read the second time, and referred to Messrs. POTTER, ELLERY, and NICHOLAS, to consider and report thereon to the Senate.

The bill, entitled "An act making an appropriation for carrying into effect the convention concluded between the United States and the King of Spain, on the 11th day of August, 1802," was read the second time, and referred to Messrs. BALDWIN, SMITH, of New York, and ADAMS, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act providing for the expenses of the civil government of Louisiana;" also, a bill, entitled "An act granting further time for locating military land warrants, and for other purposes;" also, the bill, entitled "An act to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," with amendments; in which they desire the concurrence of the Senate.

The two bills last brought up for concurrence were read, and ordered to the second reading.

Agreeably to notice given on the 1st instant, Mr. BALDWIN asked and obtained leave to bring in a bill to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy, Departments; and the bill was read and ordered to the second reading.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

MONDAY, March 5.

Mr. VENABLE, from the committee to whom was referred, on the 1st instant, the bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned," reported the same without amendment.

The bill, entitled "An act granting further time for locating military land warrants, and for other purposes," was read the second time, and referred to Messrs. FRANKLIN, VENABLE, and WORTHINGTON, to consider and report thereon to the Senate.

The bill, entitled "An act providing for the expenses of the civil government of Louisiana" was read the second time, and referred to Messrs. BRECKENRIDGE, ANDERSON, and DAYTON, to consider and report thereon to the Senate.

The PRESIDENT communicated a letter from the Secretary for the Department of the Treasury,

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dated the 2d instant, accompanying a statement of the emoluments of the officers employed in the collection of the customs for the year 1803; which were read, and ordered to lie for consideration.

*Resolved*, That the Secretary of the Senate notify to the House of Representatives, that, at 12 o'clock to-morrow, the Court of Impeachments, holden for the trial of John Pickering, will be open and ready to proceed to business in the Senate Chamber.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

## TUESDAY, March 6.

The bill to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments, was read the second time, and referred to Messrs. BALDWIN, STONE, and TRACY, to consider and report thereon to the Senate.

The bill making compensation to the militia of Tennessee who marched to Natchez under the command of Colonel George Doherty, was read the second time, and referred to Messrs. COCKE, TRACY, and VENABLE, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the sufferers by fire in the town of Norfolk;" in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act making appropriations for the support of Government for the year 1804;" and the amendments were adopted; and

*Ordered*, That the bill pass to the third reading as amended.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on or near St. Simon's bar, and referred it to Messrs. ELLERY, JACKSON, and S. SMITH, to consider and report thereon to the Senate.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

## WEDNESDAY, March 7.

The bill, entitled "An act making appropriations for the support of the Government for the year 1804" was read the third time, and further amended; and,

*Resolved*, That this bill pass as amended.

Mr. COCKE, from the committee to whom was referred, on the 29th of February last, the bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of North Carolina," reported it without amendment.

The bill, entitled "An act for the relief of the sufferers by fire in the town of Norfolk" was read

the second time, and referred to Messrs. NICHOLAS, FRANKLIN, and BALDWIN, to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate that the House have passed a resolution to authorize the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on the third Monday of the present month; in which they desire the concurrence of the Senate.

The resolution was read, and ordered to lie for consideration.

*Ordered*, That the bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," pass to the third reading.

The Senate resumed the second reading of the bill, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;'" and

*Ordered*, That it pass to the third reading.

On motion,

*Ordered*, That the bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned," pass to the third reading.

Mr. BALDWIN, from the committee to whom was referred, on the 3d instant, the bill entitled "An act making appropriation for carrying into effect the convention concluded between the United States and the King of Spain, on the 12th day of August, 1802," reported the same without amendment; and, on motion, the bill was amended; and,

*Ordered*, That it pass to the third reading, as amended.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

## THURSDAY, March 8.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I communicate to Congress an extract of a letter from Governor Claiborne to the Secretary of State, with one which it covered, for their information as to the present state of the subject to which they relate.

MARCH 7, 1804.

TH. JEFFERSON.

The Message and letters therein referred to were read and ordered to lie for consideration.

Mr. NICHOLAS, from the committee appointed the 21st of February last, reported a bill to amend the act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President; and the bill was read and ordered to the second reading.

On motion,

*Ordered*, That the committee appointed on the 3d of January last, to search the journals and report precedents in cases of impeachments, be re-

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vived; and that they be empowered to examine and approve the account of James Mathers, and all others, for services and supplies to the Senate, sitting as a court of impeachments on the trial of John Pickering; also, the account of William Roberts, acting as assistant porter to the Senate.

Mr. ADAMS, from the committee to whom were referred, on the 15th of February last, the petition and papers of William A. Barron, together with the report of the Secretary of War thereon, made report; which was read and ordered to lie for consideration.

Mr. NICHOLAS, from the committee to whom was referred, on the 3d instant, the bill, entitled "An act altering the sessions of the district courts of the United States for the districts of Virginia and Rhode Island," reported it without amendment.

Mr. ELLERY, from the committee to whom were referred, on the 6th instant, the amendments of the House of Representatives to the bill, entitled "An act to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on or near St. Simon's bar," reported amendments thereto; which were read.

Mr. DAYTON, from the committee to whom was referred, on the 24th of February last, the bill, entitled "An act supplementary to the act, entitled 'An act providing for the Naval Peace Establishment, and for other purposes,'" reported the same with an amendment.

Mr. JACKSON gave notice that he would to-morrow ask leave to bring in a bill to erect a light-house on or near the Pitch of Cape Lookout, in the State of South Carolina.

#### FRIDAY, March 9.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,'" in which they desire the concurrence of the Senate.

The bill was read and ordered to the second reading.

The bill to amend an act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in the case of vacancies in the offices both of President and Vice President, was read the second time, and referred to Messrs. NICHOLAS, STONE, and BALDWIN, to consider and report thereon to the Senate.

Agreeably to notice given yesterday, Mr. JACKSON asked and obtained leave to bring in a bill to erect a light-house at the mouth of the Mississippi river, and, also, a light-house on or near the Pitch of Cape Lookout, in the State of North Carolina; and the bill was read and ordered to a second reading.

Mr. BRECKENRIDGE, from the committee to whom was referred, on the 5th instant, the bill, entitled "An act providing for the expenses of the civil government of Louisiana," reported amendments thereto; which were read.

A motion was made,

"That the Secretary do acquaint the House of Representatives that the Court of Impeachments will, on Monday at twelve o'clock, proceed to pronounce judgment on the articles of impeachment exhibited by them against John Pickering."

And after the adjournment of the High Court of Impeachments, the Senate adjourned.

#### SATURDAY, March 10.

The VICE PRESIDENT being absent, the Senate proceeded to the election of a President *pro tempore*, as the Constitution prescribes, and the ballots having been collected and counted, a majority thereof was for the honorable JESSE FRANKLIN, who was accordingly elected President of the Senate *pro tempore*.

*Ordered*, That the Secretary wait on the President of the United States, and acquaint him that the Senate have, in the absence of the VICE PRESIDENT, elected the honorable JESSE FRANKLIN President of the Senate *pro tempore*.

*Ordered*, That the Secretary make a like communication to the House of Representatives.

*Ordered*, That Nancy Flinn have leave to withdraw her petition, and that the committee appointed thereon be discharged.

Mr. WORTHINGTON, from the committee to whom was referred, on the 5th instant, the bill, entitled "An act granting further time for locating military land warrants, and for other purposes," reported amendments thereto; which were read and ordered to lie for consideration.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "A nact making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering;" in which bill they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The Senate took into consideration the report of the committee to whom were referred the amendments of the House of Representatives to the bill, entitled "An act to erect a light-house on St. Simon's island, in the State of Georgia, and for the placing of a buoy or buoys on or near St. Simon's bar." Whereupon,

*Resolved*, That they agree to some, and disagree to other, of the said amendments.

The bill to erect a light-house at the mouth of the Mississippi river, and, also, a light-house on or near the Pitch of Cape Lookout, in the State of North Carolina, was read the second time, and referred to Messrs. JACKSON, ELLERY, and SAMUEL SMITH, to consider and report thereon to the Senate.

*Ordered*, That Mr. BRECKENRIDGE be of the committee on the bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky, in place of Mr. BROWN, absent by permission.

The PRESIDENT communicated the report of

the Secretary for the Department of State on the petition of Moses Young, referred to him on the 25th of January last; and the report was read, and ordered to lie for consideration.

The resolution of the House of Representatives on the subject of the adjournment of the two Houses of Congress was resumed; and the further consideration thereof ordered to be postponed until Monday next.

The Senate took into consideration the motion, that the Secretary do acquaint the House of Representatives that the Court of Impeachments will, on Monday, at 12 o'clock, proceed to pronounce judgment on the articles of impeachment exhibited by them against John Pickering:

And, on the question to agree to this motion, it passed in the affirmative—yeas 20, nays 9, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Sumter, Venable, Worthington, and Wright.

NAYS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

#### MONDAY, March 12.

Mr. NICHOLAS, from the committee to whom was referred, on the 9th instant, the bill to amend an act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President, reported the same without amendment; and it was agreed that the further consideration of this bill be the order of the day for Wednesday next.

The bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering," was read the second time, and referred to Messrs. WRIGHT, LOGAN, and TRACY, to consider and report thereon to the Senate.

The bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,'" was read the second time, and referred to Messrs. WRIGHT, STONE, and VENABLE, to consider and report thereon to the Senate.

After the adjournment of the High Court of Impeachments, the Senate adjourned.

#### TUESDAY, March 13.

The Senate resumed the consideration of the resolution of the House of Representatives of the 7th instant, authorizing the President of the Senate and the Speaker of the House of Representatives to adjourn their respective Houses on the third Monday of the present month. And a motion was made to postpone the consideration thereof until Friday next, and, on the question to agree to

this motion, it passed in the negative—yeas 11, nays 15, as follows:

YEAS—Messrs. Anderson, Breckenridge, Cocke, Ellery, Nicholas, Israel Smith, John Smith of Ohio, Tracy, White, Worthington, and Wright.

NAYS—Messrs. Armstrong, Baldwin, Bradley, Dayton, Franklin, Hillhouse, Jackson, Logan, Maclay, Pickering, Plumer, John Smith of New York, Samuel Smith, Sumter, and Venable.

And having amended the resolution by substituting the 4th for the 3d Monday,

*Resolved*, That they do concur therein as amended.

Mr. BALDWIN, from the committee to whom was referred, on the 6th instant, the bill to amend the laws providing for the organization of the accounting officers of the Treasury, War, and Navy Departments, reported it without amendment.

A message from the House of Representatives, by Messrs. J. RANDOLPH and EARLY, two of their members, was received, as follows:

"*Mr. President*: We are ordered, in the name of the House of Representatives and of all the People of the United States, to impeach Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, of high crimes and misdemeanors; and to acquaint the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same.

"We are also ordered to demand that the Senate take order for the appearance of the said Samuel Chase, to answer to the said impeachment."

A message from the House of Representatives informed the Senate that the House have passed a resolution to instruct the joint committee of enrolled bills to wait on the President of the United States, respecting a variance between the engrossed and enrolled bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirbaha," which bill originated in the House of Representatives.

The bill, entitled "An act to revive and continue in force an act, entitled 'An act for the relief of the refugees from the British provinces of Canada and Nova Scotia,'" was read the third time, and passed.

The Senate took into consideration the resolution of the House of Representatives of this day, directing the joint committee for enrolled bills to wait on the President of the United States for the purposes therein mentioned; and

*Resolved*, That they do concur therein.

The bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of Virginia therein mentioned," was read the third time, and passed.

The bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take the depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes," was read the third time.

*Ordered*, That the further consideration thereof be postponed until to-morrow.

The bill, entitled "An act making an appropriation for carrying into effect the Convention con-

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cluded between the United States and the King of Spain, on the 11th day of August, 1802," was read the third time as amended.

*Resolved*, That this bill pass, with an amendment.

The Senate took into consideration the amendment reported by the committee to the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads; and on the question to agree to the said amendment, as follows:

Strike out, in the first section, after the word "proceed," in the fourth line, to the word "and," in the seventh line, and insert, "to explore and designate the most eligible route for a turnpike road, to lead from Fort Cumberland, on the Potomac, to Wheeling, on the Ohio.

It passed in the negative—yeas 13, nays 15, as follows:

YEAS—Messrs. Anderson, Breckenridge, Cocke, Dayton, Franklin, Pickering, Israel Smith, John Smith of Ohio, Samuel Smith, Stone, Sumter, Worthington, and Wright.

NAYS—Messrs. Adams, Armstrong Baldwin, Bradley, Ellery, Hillhouse, Jackson, Logan, Maclay, Nicholas, Olcott, Plumer, John Smith of New York, Venable, and White.

*Ordered*, That the bill be recommitted, and that Messrs. NICHOLAS, WORTHINGTON, and DAYTON, be the committee further to consider and report thereon to the Senate.

On motion,

"That the House of Representatives be notified that the Senate will not receive, so as to act on the same same this session, any new matter or bill after the 20th instant."

It was agreed that this motion should lie for consideration.

The Senate took into consideration the amendment reported by the committee to the bill, entitled "An act providing for the expenses of the civil government of Louisiana;" and having adopted the amendment,

*Ordered*, That the bill pass to the third reading as amended.

Mr. WRIGHT, from the committee to whom were referred, on the third of February last, the petition of John Hoskins Stone; also, the petition of Elijah Brainard; reported a bill in addition to an act making provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war; which was read, and ordered to the second reading.

The Senate took into consideration the amendment reported by the committee to the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" and, after debate,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

The Senate took into consideration the message of the House of Representatives, delivered this day at the bar of the Senate by two of their members, on the impeachment of Samuel Chase,

one of the Associate Justices of the Supreme Court; and,

*Ordered*, That it be referred to Messrs. BALDWIN, ANDERSON, and NICHOLAS, to consider and report the same to the Senate.

The Senate took into consideration the report of the Secretary for the Department of State on the petition of Moses Young; and,

*Ordered*, That it be referred to Messrs. JACKSON, STONE, and BALDWIN, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill, entitled "an act altering the sessions of the district courts of the United States for the district of Virginia and Rhode Island; and,

*Ordered*, That it pass to a third reading.

WEDNESDAY, March 14.

Mr. JACKSON, from the committee to whom was referred, on the 10th instant, the bill to erect a light-house at the mouth of the Mississippi river, and also a light-house on or near the Pitch of Cape Lookout, in the State of North Carolina, reported amendments thereto; which were read.

On motion,

*Ordered*, That the Secretary of the Senate do wait on the President of the United States and present to him a copy, from the records of the Senate, while sitting as a Court of Impeachments, of the judgment pronounced by them on the 12th instant, removing from office John Pickering, district judge of the district of New Hampshire.

The Senate resumed the second reading of the bill, "entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina;" and,

*Ordered*, That it pass to the third reading.

The Senate took into consideration the amendment reported by the committee to the bill, entitled "An act granting further time for locating military land warrants, and for other purposes," which was not agreed to; and,

*Ordered*, That this bill pass to a third reading.

Mr. WRIGHT, from the committee to whom was referred, on the 12th instant, the bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering," reported amendments thereto; which were disagreed to; and, on motion, the bill was amended.

*Ordered*, That it pass to the third reading as amended.

Mr. BALDWIN, from the committee to whom yesterday was referred the message from the House of Representatives relative to the impeachment of Samuel Chase, made report; which was read and adopted, as follows:

"Whereas, the House of Representatives, on the 13th day of the present month, by two of their members, Messrs. John Randolph and Early, at the bar of the Senate, impeached Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, of high crimes and misdemeanors, and acquainted the Sen-

ate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same;

"And likewise demanded that the Senate take order for the appearance of the said Samuel Chase to answer to the said impeachment. Therefore,

"*Resolved*, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives."

*Resolved*, That the Secretary of the Senate notify the House of this resolution.

A motion was made, that it be

*Resolved*, That the record of the proceedings of the Senate sitting as a Court of Impeachments on the impeachment of John Pickering, district judge for the district of New Hampshire, together with the documents on file in the cause, be printed as an appendix to the Journals of the Senate for the present session.

It was agreed that this motion should lie for consideration.

Mr. ANDERSON, from the committee to whom was referred, on the 29th of February last, the bill, entitled "An act to alter and establish certain post roads, and for other purposes," reported amendments thereto; which were read.

*Ordered*, That they lie for consideration.

The amendment reported by the committee to whom was referred, on the 24th of February last, the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" was resumed; and, on the question to agree to the report, which is, to strike out the third section of the bill, as follows:

"*And be it further enacted*, That the act, entitled 'An act fixing the rank and pay of the commanding officer of the Corps of Marines,' passed on the 22d day of April, in the year 1800, shall be, and the same is hereby, repealed, and that nothing herein contained shall be construed to revive the office of Major of the Marine Corps, and that the President of the United States be, and he is hereby, authorized to make such reductions in the officers of the Marine Corps as he may deem expedient and consistent with the public interest and safety:"

It passed in the affirmative—yeas 14, nays 12, as follows:

YEAS—Messrs. Adams, Anderson, Dayton, Jackson, Logan, Olcott, Pickering, Plumer, Samuel Smith, Stone, Tracy, Venable, White, and Wright.

NAYS—Messrs. Armstrong, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Maclay, Nicholas, Israel Smith, John Smith of Ohio, John Smith of New York, and Worthington.

*Ordered*, That this bill pass to the third reading as amended.

The bill in addition to an act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war, was read the second time, and referred to Messrs. BALDWIN, WRIGHT, and NICHOLAS, to consider and report thereon to the Senate.

The Senate resumed the second reading of the bill to amend an act relative to the election of a President and Vice President of the United States,

and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President; and,

*Ordered*, That it pass to the third reading.

The Senate resumed the third reading of the bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take the depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes; and,

*Ordered*, That the consideration thereof be further postponed.

The Senate resumed the second reading of the bill to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments; and

*Ordered*, That the consideration thereof be further postponed.

The bill, entitled "An act providing for the expenses of the civil government of Louisiana," was read the third time as amended; and,

*Resolved*, That this bill pass with an amendment.

Mr. COCKE, from the committee to whom was referred on the 6th instant, the bill making compensation to the militia of Tennessee who marched to Natchez, under the command of Colonel George Doherty, reported the bill with amendments.

The Senate took into consideration the report of the committee on the petition of William A. Barron; and, after debate, the Senate adjourned.

#### THURSDAY, March 15.

Mr. VENABLE, from the committee to whom was referred, on the 23d of February last, the memorial of Richard Soderstrom, made report; which was read, and ordered to lie on the table.

The Senate resumed the consideration of the report of the committee on the petition of William A. Barron; and,

*Ordered*, That it be postponed.

Mr. NICHOLAS, from the committee to whom was referred, on the 7th instant, the bill, entitled "An act for the relief of the sufferers by fire in the town of Norfolk," reported the bill without amendment.

*Ordered*, That it pass to the third reading.

The bill, entitled "An act declaring the assent of Congress to an act of the General Assembly of the State of North Carolina," was read the third time; and

*Ordered*, That the further consideration of this bill be postponed until the first Monday in December next.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

Agreeably to the request of the Senate and House of Representatives, delivered me by their joint Committee of Enrolled Bills, I have returned the enrolled bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," to the House of Representatives, in which it originated.

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The Message was read, and ordered to lie on file.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," in which they desire the concurrence of the Senate.

The bill was read, and ordered to the second reading.

The bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering," was read the third time as amended; and,

*Resolved*, That this bill pass with an amendment.

The Senate took into consideration the amendments reported by the committee to the bill making compensation to the militia of Tennessee who marched to Natchez under the command of Col. George Doherty; and having considered some of the amendments,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

Mr. ISRAEL SMITH gave notice that he would, to-morrow, ask leave to bring in a bill altering the time for the next meeting of Congress.

#### FRIDAY, March 16.

Mr. TRACY, from the committee to whom was referred, on the 29th of February last, the bill, entitled "An act for the relief of George Lee Davidson," reported it without amendment.

The bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," was read the second time.

*Ordered*, That it be referred to Messrs. BRADLEY, TRACY, BALDWIN, JACKSON, and SAMUEL SMITH, to consider and report thereon to the Senate.

The bill to amend an act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of President and Vice President, was read the third time.

*Resolved*, That this bill pass, that it be engrossed, and that the title thereof be "An act supplementary to the act, entitled 'An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of President and Vice President,'" and

The Senate resumed the third reading of the bill, entitled "An act to authorize the Courts of the United States to appoint Commissioners to take depositions of witnesses out of Court, to administer oaths to appraisers, and for other purposes;" and, on motion, the bill was amended;" the question to agree to the final passage of the bill, as amended, passed in the negative—so the bill was lost.

Mr. COCKE notified the Senate that he should to-morrow ask leave to bring in a bill providing for the sale of the public lands in the district of New Orleans.

The bill, entitled "An act granting further time for locating military land warrants, and for other purposes," was read the third time, and passed.

The bill, entitled "An act for the relief of the sufferers by fire in the town of Norfolk," was read the third time, and passed.

The Senate resumed the third reading of the bill, entitled "An act altering the sessions of the district courts of the United States for the district of Virginia and Rhode Island;" and, having amended the bill,

*Resolved*, That this bill pass as amended.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act to alter and establish certain post roads, and for other purposes;" and they were amended, and, together with other amendments, adopted; and,

*Ordered*, That the bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House disagree to the amendment of the Senate to the bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering." The House of Representatives have passed a bill, entitled "An act in addition to an act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on the subject,'" a bill, entitled "An act supplementary to the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,'" a bill, entitled "An act concerning the public buildings at the City of Washington," a bill, entitled "An act for the relief of the heirs of John Habersham;" and a bill, entitled "An act for the relief of the legal representatives of David Valenzin, deceased, and for other purposes;" in which bills they desire the concurrence of the Senate.

The five last mentioned bills were read, and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives disagreeing to the amendment to the bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering;" and

*Resolved*, That they do recede from said amendment.

Agreeably to notice given yesterday. Mr. ISRAEL SMITH asked and obtained leave to bring in a bill altering the time for the next meeting of Congress; which was read, and ordered to the second reading.

Mr. WRIGHT gave notice that to-morrow he would move for leave to bring in a bill for the

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temporary removal of the seat of Government to the city of Baltimore.

Mr. LOGAN gave notice that he should to-morrow ask leave to bring in a bill for the relief of Philip Sloane.

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SATURDAY, March 17.

Mr. JOHN SMITH, of Ohio, presented the memorial of James Sutton, holding lands under John C. Symmes, and praying to be enabled to perfect his title thereto, as stated at large in his petition; which was read; and,

*Ordered*, That it be referred to the committee appointed on the 15th instant, on the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and other purposes," to consider and report thereon.

Mr. BRECKENRIDGE presented the petition of Perez Morton and others, agents for sundry claimants of lands south of the State of Tennessee, and west of the State of Georgia, praying the attention of Congress to their claims, and that they may be confirmed in their titles to the premises, for reasons mentioned in their petition; which was read; also, similar petitions, signed by James Strawbridge, and Thomas Young, by his attorney, John Thomas Mason, were presented by Mr. ANDERSON, and read.

*Ordered*, That they lie on the table.

Mr. BRADLEY, from the committee to whom was referred, on the 16th of December last, a bill to make further appropriations for the purpose of extinguishing the Indian claims in the State of Tennessee and Kentucky, reported amendments, which were read.

*Ordered*, That they lie for consideration.

Agreeably to notice given yesterday, Mr. WRIGHT asked and obtained leave to bring in a bill for the temporary removal of the seat of Government to the city of Baltimore; and the bill was read.

*Ordered*, That it pass to the second reading.

Agreeably to notice given yesterday, Mr. LOGAN asked and obtained leave to bring in a bill for the relief of Philip Sloane; and the bill was read, and ordered to the second reading.

The Senate resumed the consideration of the report of the committee, made on the 8th instant, on the petition of William A. Barron, which was read, as follows:

"That the said William A. Barron, having performed the journeys referred to in his said petition, on public service, and under the orders of his commanding officer, it appears reasonable to the committee that the account of his travelling expenses should be paid.

"But, with respect to the prayer for the allowance of extra rations, the committee are of opinion that this arrangement must rest with the proper Executive department, and is not a subject for the interference of the Legislature; they submit, therefore, the following resolution:

*Resolved*, That the accounting officers of the Treasury be authorized to adjust and settle the account of William A. Barron, Captain in the Corps of Engineers, for his travelling expenses, on two journeys, performed by him in September and October, 1802, on public

service, and by order of the Lieutenant Colonel commandant of Engineers at West Point;"

And the report was adopted.

On motion by Mr. COCKE, that it be

*Resolved*, That a committee be appointed to bring in a bill to authorize the President of the United States to appoint Commissioners to inquire and report to the next session of Congress, what lands in Louisiana have been granted, by legal authority, prior to the — day of —.

It was determined in the negative.

The bill altering the time for the next meeting of Congress was read the second time, and ordered to the third reading.

The bill, entitled "An act in addition to an act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject,'" was read the second time, and referred to Messrs. TRACY, BALDWIN, and BRECKENRIDGE, to consider and report thereon to the Senate.

*Ordered*, That the committee appointed to take into consideration the petitions of John Crouse, Christian Vangundy, and others, be discharged, and that their several petitions be referred to the committee appointed on the 16th instant, to whom was referred the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," to consider and report thereon.

The bill, entitled "An act supplementary to the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,'" was read the second time, and ordered to the third reading.

The bill, entitled "An act concerning the public buildings at the city of Washington," was read the second time, and referred to Messrs. JACKSON, WRIGHT, and S. SMITH, to consider and report thereon.

The bill, entitled "An act for the relief of the heirs of John Habersham," was read the second time, and referred to Messrs. BALDWIN, BRADLEY, and ARMSTRONG, to consider and report thereon.

The bill, entitled "An act for the relief of the legal representatives of David Valenzin, deceased, and for other purposes," was read the second time, and referred to Messrs. TRACY, S. SMITH, and BRADLEY, to consider and report thereon.

The bill, entitled "An act to alter and establish certain post roads, and for other purposes," was read the third time as amended.

*Ordered*, That the further consideration of this bill be postponed to Monday next.

A message from the House of Representatives informed the Senate that they have passed the bill, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," with amendments, in which they desire the concurrence of the Senate.

The amendments to the bill last mentioned were read, and ordered to lie for consideration.

Mr. BALDWIN, from the committee to whom was referred the bill, entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds received in the

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actual service of the United States during the Revolutionary war," reported amendments; which were read, and ordered to lie for consideration.

Mr. ADAMS, agreeably to the report of the committee this day appointed on the subject, brought in a bill for the relief of William A. Barron; which was read, and ordered to the second reading.

MONDAY, March 19.

The Senate resumed the third reading of the bill, entitled "An act to alter and establish certain post roads."

On motion, to add the following after section third:

*"And be it further enacted,* That two post roads shall be laid out, under the inspection of Commissioners to be appointed by the President of the United States, one to lead from Tellico block-house, in the State of Tennessee, and the other from Jackson court-house, in the State of Georgia, by routes the most eligible, and as nearly direct as the nature of the ground will admit, to New Orleans:"

It passed in the affirmative—yeas 17, nays 10, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Dayton, Franklin, Jackson, Mac-lay, Nicholas, John Smith of Ohio John Smith of New York, Samuel Smith, Stone, Sumter, Venable, and Worthington.

NAYS—Messrs. Adams, Bradley, Hillhouse, Logan, Olcott, Pickering, Plumer, Israel Smith, Tracy, and White.

And, sundry other amendments having been agreed to,

*Resolved,* That this bill do pass as amended.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,' in which they desire the concurrence of the Senate.

Mr. JACKSON, from the committee to whom was referred, on the 17th instant, the bill, entitled "An act concerning the public buildings at the City of Washington," reported the bill without amendment.

The bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" was resumed.

*Ordered,* That the consideration of this bill be further postponed.

The Senate resumed the second reading of the bill to erect a light-house at the mouth of the Mississippi river; and also a light-house at or near the Pitch of Cape Lookout, in the State of North Carolina; and, having agreed to sundry amendments, as reported by the committee on the 14th instant,

*Ordered,* That this bill pass to the third reading as amended.

The bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships or vessels,'" was read and ordered to the second reading.

The bill authorizing the payment of two thousand eight hundred dollars to Philip Sloan was read the second time, and referred to Messrs. PICKERING, S. SMITH, and LOGAN, to consider and report thereon.

The bill for the relief of William A. Barron was read the second time.

*Ordered,* That it pass to the third reading.

The bill, entitled "An act supplementary to the act, entitled 'An act to incorporate the subscribers to the Bank of the United States,'" was read the third time and passed.

Mr. BRECKENRIDGE gave notice that he should to-morrow ask leave to bring in a bill giving additional compensation to the Governor, Secretary, and Judges of the Indiana Territory.

#### SEAT OF GOVERNMENT.

The bill for the temporary removal of the seat of Government of the United States to the city of Baltimore was taken up for its second reading. The bill is as follows:

*Be it enacted, &c.,* That, prior to the first Monday of November next, all offices attached to the seat of Government of the United States shall be removed to, and, until the first Monday in November, in the year eighteen hundred and —, shall remain in the city of Baltimore, in the State of Maryland, at which place the session of Congress next ensuing shall be held.

SEC. 2. *And be it enacted,* That the President appoint three Commissioners, who, or any two of whom, shall, under the direction of the President, be authorized to provide suitable buildings in the city of Baltimore, for the accommodation of Congress and of the President, and for the public offices of the Government of the United States.

SEC. 3. *And be it enacted,* That all offices attached to the said seat of Government shall be removed there-to, by their respective holders, and shall, after the first Monday of November next, cease to be exercised elsewhere; and that, to defray the necessary expense of such removal and temporary residence, the President of the United States be authorized to accept such grants of money, lots, or buildings, as may be offered by the citizens of the United States for the same.

[The debate which took place on this occasion, had progressed to some length before the reporter entered the House. Mr. WRIGHT was then on the floor, and had made a motion to postpone the further consideration of the bill until the first Monday in May.]

Mr. W. assigned as reasons for this motion, that it was not his intention in presenting the bill, that it should pass; but that it had been offered with the view of acting as a spur to the inhabitants of Washington to effect a more complete accommodation of Congress. He trusted and believed it would have that effect; and the operation of the postponement would, by hanging the bill over their heads, most powerfully tend to produce the desirable result of a concentration of the city, and an augmentation of accommodation.

Mr. JACKSON followed, and, in terms of appropriate energy, condemned the proposition of removal. He said he should not have believed, but for the express declaration of the gentleman from Maryland, that he would have brought forward a

bill the sole object of which was to frighten the women and children of Washington. So far from the measure having the desired effect avowed by the gentleman, if it had any effect whatever, it would be to shake all confidence in the Government, to repress the very accommodation desired.

Mr. J. denied the moral right of Congress to remove the seat of Government; it had been fixed under the Constitution, and without its violation could not be changed.

Such a measure would indicate a prostration of plighted faith; would destroy all confidence in the Government, from one end of the continent to the other.

Gentlemen, in favor of this measure, should know its cost. Already had the present seat of Government, in its origination and consequences, cost the nation the assumption of the State debts to the amount of twenty-one millions, and between one and two millions for public accommodation. Would gentlemen be willing not only to lose all that had been expended, but likewise to indemnify the proprietors in the city, whose assessed property amounted to two and a half millions of dollars, and the proprietors of property in the whole District, the amount of which he was unable to state?

Mr. J. concluded by saying, he should vote against the postponement, under the expectation that the Senate would take up the bill and reject it by a majority so great, that no similar proposition should ever again be brought before them.

Mr. ANDERSON declared himself hostile to the postponement, as he was in favor of the passage of the bill, under certain modifications. He considered Congress possessed the Constitutional power of altering the seat of Government; and he believed, from an experience of the inconveniences attending the existing seat, it was their duty to change it. He allowed that, in such an event, an obligation would arise to indemnify the proprietors for the losses they would thereby sustain. This, however, he considered the lesser evil; as the sum required to make an indemnity would be less than that required for the improvements contemplated, and which were necessary to accommodate the Government.

Mr. COCKE declared himself decidedly inimical to the bill. The permanent seat of Government was fixed under the Constitution, and the power did not belong to Congress to alter it.

Mr. ADAMS strenuously contended against the right of Congress to remove the seat of Government. To do so, would be to prostrate the national faith, and to shake the confidence of the nation in the Government. He considered the proposed measure as inexpedient as it was unconstitutional; as it tended directly to defeat the object of the mover.

Mr. S. SMITH said, he should vote in favor of the postponement, because he believed, if the bill were not postponed, it would consume more time than could, at this late period of the session, be spared, without a serious neglect of important business before Congress. He expressed his regret at its introduction.

The question was then taken on the motion of postponement, and decided in the negative—yeas 3, nays 24, as follows:

YEAS—Messrs. I. Smith, S. Smith, and Wright.

NAYS—Messrs. Adams, Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Cocke, Dayton, Franklin, Jackson, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, John Smith of Ohio, John Smith of New York, Stone, Sumner, Tracy, Venable, White, and Worthington.

The bill was then read a second time.

Mr. DAYTON said, he had been instructed by the Legislature of New Jersey, in case any prospect presented itself of a removal of the seat of Government, to offer, in their name, the public buildings in Trenton for their accommodation. He, therefore, gave notice that, in case the bill went to a third reading, he should produce his instructions, and move the substitution of Trenton in the room of Baltimore. At the same time, he was free to declare his opinion of the impolicy of the proposed measure. The provision of the Constitution had arisen from an experience of the necessity of establishing a permanent seat for the Government. To avert the evils arising from a perpetual state of mutation, and from the agitation of the public mind whenever it is discussed, the Constitution had wisely provided for the establishment of a permanent seat, vesting in Congress exclusive legislation over it. While he declared this as his creed, he begged it to be understood that there were, in his opinion, some rightful grounds of removal. There were four such, two of which were the following: if the place should be found a grave-yard for those who resided in it, or if the inconveniences of conducting the machine of Government should be so great as to prevent the due transaction of the public business. For the existence of these, no fault could be attached to the District. If, therefore, a removal took place on their account, Congress were bound to indemnify the proprietors. There were two other grounds of removal, which would justify a removal without indemnity, as they would be the effect of the misconduct of the inhabitants of the District. These were the evidence of a turbulent spirit, of endangering the safety of Congress, and of a determined resolution, arising from a dissatisfaction which the Government or Congress expressed in favor of a recession.

When he stated these grounds for removal, Mr. D. said, it was not from any apprehension of their occurrence. On the contrary, he believed the Government in perfect safety, and he was convinced, if any hostile arm should be raised against it, the inhabitants of Columbia would be ready to shed their blood in its defence.

Nothing could exceed his surprise at the motives expressed by the gentleman from Maryland for bringing forward this measure. He should have expected, if the gentleman wished to promote the interests of the city, he would have imitated the example of the Athenians, who, in order to make a particular fund devoted to theatrical exhibitions sacred, had passed a law punishing with death any man who should move to divert it from

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its allotted purpose; and that the honorable gentleman, instead of bringing forward this bill, would have introduced one punishing with death the man who should move a change of the seat of Government; so that he who made the attempt might know that he did it with a halter around his neck.

Mr. MACLAY moved to strike out the words "Baltimore," and "Maryland," in the first section.

Motion agreed to—ayes 14, noes 10.

Mr. M. then observed, that he would concisely state the ideas which influenced him on this subject. For the existing inconveniences of this place, and the want of accommodation to which Congress was exposed, he did not consider the inhabitants of Washington in the least to blame. The causes from which these flowed, it was not in their power to control. They arose, in a great measure, from the city being surrounded by seats of trade, which naturally repressed its rise here. Those inconveniences were, he believed, of a nature not to be cured by time, and, if there was no Constitutional obstacle, it would be the best policy to remove immediately. He contended that no Constitutional obstacle did exist. On the contrary, he was of opinion that it was the duty of the Legislature, in case the public good required it, to remove the seat of Government. He believed that this place would not long remain the seat. The members of the Government will become tired of remaining here, when they are convinced that the inconveniences which they experience will not promote the advantage even of their posterity. The single question then is, whether less inconvenience will be produced by an immediate or a protracted removal. He was clearly of opinion that the inconvenience of removing, at this time, would be less than at a future day. He concluded by saying, that he should not, himself, have brought forward this measure at the present time. He would have waited for more conclusive proofs of the insuperable inconveniences attending a residence at this place, when opinions, at present variant, would be more united.

Mr. JACKSON said, the gentleman from Pennsylvania (Mr. MACLAY) had picked a hole in the bill, and what effect it would produce, he could not pretend to say. If the word "Baltimore" had been suffered to remain, it would have been rejected by a large majority.

Mr. J. then went, at some length, into a view of the unconstitutionality of a removal, and the happy situation of Washington for the seat of the Government. He said that he was far from being friendly, in the first instance, to this measure, which might be called the hobby-horse of, perhaps, the most illustrious man that ever lived. But, once adopted, it became sacred in his eyes; and nothing short of an act of God, in the shape of an earthquake, a plague, or some other fatal scourge, would justify a removal; and, he trusted, that unless some such act occurred, this would be the last time the measure was proposed.

The time would come, though he hoped to God neither his children nor his children's children would live to see it, when the population on this

side of the Mississippi would pass that river, and when the seat of Government would be translated to its banks. Centuries would, however, elapse before that period arrived.

Mr. ANDERSON said, there was no such word in the Constitution as "permanent," applied to the seat of Government; nor did the Constitution prohibit the removal of it when the public interest should require it. Believing that such would be the experience of the inconveniences of the place, that Congress would certainly remove within five years, he was for taking that step now. The ill accommodation of the place was manifest to every man; nor did he believe that time would cure the evil. Such losses, however, as should be sustained by the proprietors, he was ready to remunerate. This was the least expensive course which could be pursued, as to make the necessary improvements in this place, will require at least the annual sum of fifty thousand dollars for twenty years to come, and at least thirty thousand dollars a year to keep the public buildings in a state of repair. In addition to this immense expense was to be added, the great loss of time which arose from the inconvenient arrangements of the place, and the consequent expenditure of public money. For these reasons, Mr. A. said, he should give a decided vote in favor of the bill.

Mr. JACKSON remarked, that the gentleman from Tennessee ought, in forming his opinion of the constitutionality of removing the seat of Government, to attend as well to the laws passed by Congress on the subject, as to the provisions of the Constitution itself. [Mr. J. here read the article of the Constitution on the subject.] He said that, according to the rigid construction of this provision, it excluded altogether a *temporary* seat, after this part of the Constitution was carried into effect. Under this Constitutional provision, Congress passed an act on the 6th of July, 1790, not more than a year and a half after the first meeting of the Legislature, and when many of the members of that body had been members of the Convention, and might, therefore, be presumed to be the best acquainted with the true meaning of the Constitution. This act fixed a temporary and a permanent seat of Government. [Mr. J. read it.] He then asked, can anything be more clear and explicit? Does it not show, in terms of unequivocal meaning, that it was the opinion of the men best qualified to decide, that the seat of Government, once fixed under the provision of the Constitution, must be permanent? It was not then imagined that the Government ought to be travelling about from post to pillar, according to the prevalence of this or that party or faction. All the ideas of that day were hostile to this wheelbarrow kind of Government.

Mr. WRIGHT contended that, while the Constitution had sacredly and irrevocably fixed the permanent seat of Government in this place, Congress might make some other place the temporary seat.

Mr. ANDERSON said, that all that the law passed by Congress proved was, that Congress, and not the Constitution, had declared this place the

permanent seat. This law, like other laws, was subject to repeal.

Mr. ADAMS wished, on this subject, to be explicit. He asked what was the meaning of the article of the Constitution on this point, and all the laws of Congress passed under it? From the formation of the Constitution until the removal of the Government to this place, but one sentiment had existed, which was, that the seat of the Government once fixed under the Constitution, became the permanent seat. As to the idea of the gentleman from Maryland, who says this is the permanent seat while Congress are going from one place to another, he could not understand it. The Constitution says, the place fixed on by Congress, on the cession of jurisdiction by the States, shall be the seat of Government. The idea of a temporary seat implies, necessarily, two seats of Government. But the expression in the Constitution is "seat," and that implies only one seat. The reason of this provision of the Constitution is obvious. As the gentleman from Georgia has very justly observed, the Government had been driven from post to pillar. The question, what place should be the seat of Government, had never presented itself without enkindling violent feelings; and it was supposed that the question would continue to distract our public councils, until some permanent seat of Government was fixed. To carry this into effect, the Constitution interposed, and said, ten miles square shall be given to Congress, where their power shall be sovereign, and that shall be the seat of Government. Why give this exclusive legislation, if their residence is not to be permanent? Would it not be the acme of the ridiculous, for Congress to go to Philadelphia, and still continue to exercise exclusive legislation here? Let us now turn to the acts of Congress, and the proceedings had under them. [Mr. A. here read the act of Congress fixing the seat of Government.] It will appear that it was the intention of Congress that this should be the permanent seat of the Government, from the public buildings erected. Thus much as to the understanding of the Government. Now, as to the meaning of Maryland and Virginia, who gave up the territory, and also gave considerable sums of money for its improvement. Could this have possibly been done under the contemplation that Congress would come here, and, after staying three or four years, run off to different quarters of the Union?

Now then, after this uniform opinion, entertained by Congress, by the States of Maryland and Virginia, and by every man who has expressed an opinion on the subject, until within a few years past, are we to be told that it is possible to give a different construction to the Constitution? If anything can fix a meaning to words, everything which has occurred to this day, unites to decide this the permanent seat of the Government. These, said Mr. A., are my ideas. On the ground of expediency, if it were admitted as applicable to the present question, I would not undertake to say whether this is the most proper place for the residence of the Government. Nor will I say

that Congress could not, consistently, remove in consequence of an act of God; that implies force, to which all human institutions must give way. But, say gentlemen, if we remove, we must indemnify the proprietors. But why indemnify if the Constitution does not make this the permanent seat of Government, as it has been understood to be by everybody until this day? Where is the propriety of indemnifying the holders of property here, if this is not the permanent seat, more than proprietors in Philadelphia or New York, where Congress formerly met? This very argument, urged by the advocates of the bill, shows that the Constitution has made this the permanent seat. As to the idea of some gentlemen, of granting millions for an indemnity, the thing is impossible; it cannot be done; the people will not suffer it.

Mr. DAYTON replied to some of the remarks made in the course of the debate, principally for the purpose of explaining his previous observations.

When the question was taken, on ordering the bill to a third reading, and passed in the negative—yeas 9, nays 19, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Bradley, Maclay, Plumer, Stone, Tracy, and Worthington.

NAYS—Messrs. Adams, Baldwin, Cocke, Dayton, Franklin, Hillhouse, Jackson, Logan, Nicholas, Olcott, Pickering, I. Smith, S. Smith, J. Smith, of Ohio, J. Smith, of New York, Sumter, Venable, White, and Wright.

So the bill was lost.

TUESDAY, March 20.

Agreeably to notice, Mr. BRECKENRIDGE asked and obtained leave to bring in a bill giving additional compensation to the Governor, Secretary, and Judges of the Indiana Territory; and the bill was read and ordered to the second reading.

Mr. MACLAY gave notice that he should to-morrow ask leave to bring in a bill to provide for a more extensive distribution of the laws of the United States.

Mr. BALDWIN, from the committee to whom was referred, on the 17th instant, the bill, entitled "An act for the relief of the heirs of John Habersham," reported the bill with amendments.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for the relief of the legal representatives of the late General Moses Hazen," in which they desire the concurrence of the Senate.

The bill last mentioned was read and ordered to the second reading.

Mr. TRACY, from the committee to whom was referred, on the 17th instant, the bill, entitled "An act for the relief of the legal representatives of David Valenzin, deceased, and for other purposes," reported the bill without amendment.

The Senate took into consideration the amendments of the House of Representatives to the bill, entitled "An act erecting Louisiana into two Territories, and providing for the temporary govern-

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ment thereof;" and on the question to agree to the amendment of the fourth section, as follows :

Section 4th—strike out the whole of the section, and, in lieu thereof, insert a new section, in the words following, to wit:

SEC. 4. The Legislative powers shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed by the President of the United States from among those holding real estate therein, and who shall have resided one year, at least, in the said Territory, and hold no office of profit under the Territory, or the United States, to serve one year from the time of their appointment; and the said Legislative Council shall, at their first session, lay off or divide the said Territory into convenient counties or districts, and apportion among the said counties or districts, according to their respective numbers, the thirteen members of the said Legislative Council: the members of the Legislative Council shall, after the expiration of one year from the time of the appointment aforesaid, be chosen annually by all the free male white persons of the age of twenty-one years, who were resident in said Territory, on the 30th day of April, 1803, and who had been resident therein one whole year next before the election, on their producing satisfactory proof to the officers of the election that they have taken an oath of allegiance to the United States, agreeably to an act of Congress passed on the 14th day of April, 1802, entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," and by citizens of the United States who may since that time have become residents in said Territory, or who may hereafter become residents, and who shall have resided therein one whole year, six months of that time next before the election, to be in the district or county in which he or they shall vote; and the Legislative Council, so chosen as aforesaid, shall have power to fix the times and places, and to determine the manner of holding the said elections, and to judge of the qualifications of the members, and the validity of their elections. But if any of the said districts or counties shall refuse or neglect to make such election for one month after the time appointed for holding the same, then the Governor with the Council, shall appoint a person or persons who shall reside within the district, and be qualified as aforesaid, to serve for the district or county so neglecting or refusing. The Governor, by and with the advice and consent of the Legislative Council, or a majority of them, shall have power to alter, modify, or repeal, the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful objects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not be burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall, from time to time, report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall, thenceforth, be of no force. The Governor or Legislative Council shall have no power over the primary disposal of the soil, nor tax the lands of the United States, nor to interfere with the claims to lands within the said Territory. The Governor shall convene and

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prorogue the Legislative Council whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same, from time to time, to the President of the United States:

It passed in the negative—yeas 6, nays 22, as follows:

YEAS—Messrs. Anderson, Breckenridge, Cocke, Mac-lay, Israel Smith, and Worthington.

NAYS—Messrs. Adams, Armstrong, Baldwin, Bradley, Dayton, Ellery, Franklin, Hillhouse, Jackson, Logan, Nicholas, Olcott, Pickering, Plumer, John Smith of Ohio, John Smith of New York, Samuel Smith, Sumter, Tracy, Venable, White, and Wright.

On the question to agree to the amendment to the amendment to the fourteenth section, as follows:

"Section 14, line 1, after the words 'and be it further enacted,' insert the following words: 'That all grants for lands within the territories ceded by the French Republic to the United States by the treaty of the 30th of April, in the year 1803, the title whereof was, at the date of the treaty of St. Ildefonso, in the Crown, Government, or nation, of Spain, and every act and proceeding subsequent thereto, of whatsoever nature, towards the obtaining any grant, title, or claim, to such lands, and under whatsoever authority transacted or pretended, be, and the same are hereby declared to be, and have been from the beginning null, void, and of no effect in law or equity; and;'"

It passed in the negative—yeas 1, nays 27, as follows:

YEA—Mr. Wright.

NAYS—Messrs. Adams, Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Cocke, Dayton, Ellery, Franklin, Hillhouse, Jackson, Logan, Mac-lay, Nicholas, Olcott, Pickering, Plumer, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Stone, Sumter, Tracy, Venable, and Worthington.

And having agreed to the amendment to the fifteenth section; and, also, to that of the sixteenth section with an amendment—

*Resolved*, That the Senate disagree to all the other amendments to the said bill.

Mr. JACKSON, from the committee appointed on the subject, reported a bill for the relief of Moses Young; which was read and ordered to the second reading.

Mr. PICKERING from the committee to whom was referred, on the 19th instant, the bill authorizing the payment of \$2,800 to Philip Sloan, reported the bill without amendment.

The bill to erect a light-house at the mouth of the Mississippi river; and, also, a light-house on or near the Pitch of Cape Lookout, in the State of North Carolina, was read the third time as amended, and passed.

The bill altering the time for the next meeting of Congress was read the third time.

*Ordered*, That the further consideration thereof be postponed until to-morrow.

The bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,'" was read the second time and referred to Messrs. SAMUEL SMITH, ARM-



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STRONG, and BALDWIN, to consider and report thereon to the Senate.

The bill for the relief of William A. Barron was read the third time and passed.

The Senate took into consideration the amendments reported by the committee to the bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky; and having agreed to one, and disagreed to all the other amendments reported,

*Ordered*, That the bill pass to the third reading as amended.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

I communicate to Congress a letter from Captain Bainbridge, commander of the Philadelphia frigate, informing us of the wreck of that vessel on the coast of Tripoli, and that himself, his officers, and men, had fallen into the hands of the Tripolitans. This accident renders it expedient to increase our force and enlarge our expenses in the Mediterranean beyond what the last appropriation contemplated. I recommend, therefore, to the consideration of Congress, such an addition to that appropriation as they may think the exigency requires.

TH. JEFFERSON.

MARCH 20, 1804.

The Message and papers therein referred to were read, and ordered to lie for consideration.

WEDNESDAY, March 21.

Mr. BRADLEY, from the committee to whom was referred, on the 16th instant, the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes;" reported amendments thereto; which were read, and ordered to lie for consideration.

Mr. S. SMITH from the committee to whom was referred, on the 20th instant, the bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,'" reported the bill amended.

The bill for the relief of Moses Young was read the second time, and referred to Messrs. TRACY, BALDWIN, and JACKSON, to consider and report thereon to the Senate.

The bill giving additional compensation to the Governor, Secretary, and Judges of the Indiana Territory, was read the second time, and ordered to the third reading.

The Senate resumed the third reading of the bill altering the time for the next meeting of Congress, and

*Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be "An act altering the time for the next meeting of Congress."

The bill, entitled "An act for the relief of the legal representatives of the late General Moses Hazen, was read the second time, and referred to Messrs. TRACY, ARMSTRONG, and BALDWIN, to consider and report thereon to the Senate.

Agreeably to notice given yesterday, Mr. Mac-

LAY asked and obtained leave to bring in a bill to provide for a more extensive distribution of the laws of the United States; and the bill was read, and ordered to the second reading.

The bill to make further appropriations for the purpose of extinguishing the Indian claims in the States of Tennessee and Kentucky, was read the third time; and, on motion to amend the bill, by striking out the words, "their claims in the States of Tennessee and Kentucky," and inserting in lieu thereof, "any Indian claims to any lands lying within the limits of the United States;" it passed in the affirmative—yeas 16, nays 7, as follows:

YEAS—Messrs. Adams, Armstrong, Baldwin, Bradley, Dayton, Logan, Nicholas, Pickering, Israel Smith, John Smith of New York, Samuel Smith, Stone, Sumter, Tracy, White, and Wright.

NAYS—Messrs. Anderson, Breckenridge, Cocke, Franklin, Maclay, John Smith of Ohio, and Worthington.

So it was *Resolved*, That this bill do pass, that it be engrossed, and that the title thereof be "An act to make further appropriations for the purpose of extinguishing the Indian claims."

A message from the House of Representatives informed the Senate that the House agree to some and disagree to other amendments of the Senate to the bill, entitled "An act to alter and establish certain post roads, and for other purposes."

The Senate resumed the second reading of the bill making compensation to the militia of Tennessee who marched to Natchez under the command of Colonel George Doherty;" and on the question to agree to the third reading of this bill it passed in the negative—yeas 10, nays 18, as follows:

YEAS—Messrs. Anderson, Breckenridge, Cocke, Elery, Franklin, Maclay, Nicholas, Sumter, Venable, and Worthington.

NAYS—Messrs. Adams, Armstrong, Baldwin, Bradley, Dayton, Hillhouse, Jackson, Logan, Olcott, Pickering, Plumer, Israel Smith, John Smith of New York, Samuel Smith, Stone, Tracy, White, and Wright.

So the bill was lost.

The Senate resumed the second reading of the bill to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments; and having amended the bill,

*Ordered*, That it pass to the third reading as amended.

The Senate took into consideration the resolution of the House of Representatives disagreeing to several of their amendments to the bill, entitled "An act to alter and establish certain post roads, and for other purposes;" and,

*Resolved*, That they insist on their first amendment disagreed to by the House of Representatives to the said bill, which amendment is to add a new section after the 3d section of the original bill, ask a conference thereon, and that Messrs. JACKSON and ANDERSON be managers at the same on their part,

*Resolved*, That the Senate so far recede from

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their other amendments disagreed to by the House of Representatives, as to adopt their amendments to the amendments of the Senate.

#### THURSDAY, March 22.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act for imposing more specific duties on the importation of certain articles, and, also, for levying and collecting light-money on foreign ships or vessels," in which they desire the concurrence of the Senate. They insist on some and recede from other amendments disagreed to by the Senate to the bill, entitled "An act erecting Louisiana into two Territories and providing for the temporary government thereof," ask a conference on the disagreeing votes of the two Houses, and have appointed managers on their part.

The bill first mentioned in the message was read, and ordered to the second reading.

The Senate took into consideration the resolution of the House of Representatives on the amendments to the bill last mentioned in the message, and asking a conference thereon; and

*Resolved*, That they agree to the said conference, and that Messrs. JACKSON and DAYTON be the managers at the same on the part of the Senate.

Mr. TRACY, from the committee to whom was referred, on the 21st instant, the bill for the relief of Moses Young, reported the bill amended.

Mr. TRACY, from the committee to whom was referred, on the 17th instant, the bill, entitled "An act in addition to an act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject,'" reported the bill without amendment.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of*

*Representatives of the United States:*

I lay before Congress the last returns of the militia of the United States; their incompleteness is much to be regretted, and its remedy may at some future time be a subject worthy the attention of Congress.

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TH. JEFFERSON.

The Message and paper therein referred to were read, and ordered to lie for consideration.

The bill to provide for the more extensive distribution of the laws of the United States was read the second time, and referred to Messrs. TRACY, BALDWIN, and BRADLEY, to consider and report thereon to the Senate.

The bill to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments, was read the third time, and passed.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," and which were in part adopted; and the bill was further amended.

*Ordered*, That the bill pass to the third reading, as amended.

A message from the House of Representatives

informed the Senate that the House concur in the bill, entitled "An act to ascertain the boundary of the lands reserved by the State of Virginia northwest of the river Ohio, for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands." They have passed a bill, entitled "An act to repeal a part of the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen,' in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The bill giving additional compensation to the Governor, Secretary, and Judges, of the Indiana Territory, was read the third time and amended; and passed.

The Senate resumed the second reading of the bill, entitled "An act for the relief of George Lee Davidson;" and

*Ordered*, That the consideration thereof be postponed.

The Senate took into consideration the amendments reported by the committee to the bill in addition to an act making provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war; and the amendments were not adopted.

*Ordered*, That this bill pass to a third reading.

The Senate resumed the second reading of the bill, entitled "An act concerning the public buildings in the City of Washington;" and

*Ordered*, That this bill pass to a third reading.

The Senate resumed the second reading of the bill, entitled "An act for the relief of the legal representatives of David Valenzin, deceased, and for other purposes;" and

*Ordered*, That it pass to the third reading.

The Senate took into consideration the amendments reported by the committee to the bill, entitled "An act for the relief of the heirs of John Habersham," and agreed thereto; and

*Ordered*, That the bill pass to the third reading as amended.

The Senate resumed the second reading of the bill authorizing the payment of two thousand eight hundred dollars to Philip Sloan; and

*Ordered*, That it pass to a third reading.

The Senate took into consideration the amendments reported to the bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,'" and agreed thereto; and

*Ordered*, That the bill pass to a third reading as amended.

The Senate resumed the second reading of the bill, entitled "An act in addition to an act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject,'" and agreed to an amendment.

*Ordered*, That the bill pass to the third reading as amended.

A message from the House of Representatives informed the Senate that the House have passed

a bill, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

FRIDAY, March 23.

The bill, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers;" was read the second time, and referred to Messrs. SAMUEL SMITH, BRECKENRIDGE, and ANDERSON, to consider and report thereon.

A message from the House of Representatives informed the Senate, that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land and providing for the disposal of the lands of the United States south of the State of Tennessee,'" and a bill, entitled "An act relative to the compensations of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned;" in which bills they desire the concurrence of the Senate.

The two bills last brought up for concurrence were read, and ordered to the second reading.

The bill, entitled "An act imposing more specific duties on the importation of certain articles, and also for levying and collecting light-money on foreign ships and vessels," was read the second time, and referred to Messrs. BALDWIN, SAMUEL SMITH, and TRACY, to consider and report thereon to the Senate.

Mr. SAMUEL SMITH submitted the following resolution as an amendment to the bill last committed:

*"And be it further enacted,* That the person exercising the powers which, under the Spanish Government, were vested in the Intendant of the Province of Louisiana, shall, until a district court of the United States shall have been established in the Territory of New Orleans, in conformity with the provisions of this act, have and exercise, in all cases whatever arising within the said Territory under the laws regulating and providing for the collection of duties on imports and tonnage, or under any other revenue laws of the United States, the same jurisdiction and powers which by law are given to the district and circuit courts of the United States; and the powers to remit fines, penalties, or forfeitures, and to remove disabilities, which by law are vested in the Secretary of the Treasury, may and shall, in all cases of such fines, penalties, forfeitures, or disabilities, incurred within the Territory of New Orleans, and until a Governor of the said Territory shall have been appointed, and shall have entered into the functions of his office, be exercised by the person exercising the powers which, under the Spanish Government, were vested in the Governor of the Province of Louisiana; and the said power to remit fines, penalties, or forfeitures, and to remove disabilities, may, and shall, in like manner, be exercised by the Governor of the said Territory, from the time when he shall enter into the functions of his office, in conformity with the provisions of this act, until the next session of Congress, and no longer."

*Ordered,* That it be referred to the committee last mentioned, to consider and report thereon.

Mr. SAMUEL SMITH presented the memorial of the manufacturers of gunpowder in the vicinity of the city of Baltimore, praying encouragement to the importation of saltpetre, and the memorial was read.

*Ordered,* That it be referred to the committee last appointed to consider and report thereon to the Senate.

A message from the House of Representatives informed the Senate, that the House so far recede from their amendment insisted on to the bill, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," as to adopt the report of the joint committee of conference; and they concur in the bill, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" with an amendment, in which they desire the concurrence of the Senate. They have passed a bill, entitled "An act to authorize the adjournment of district courts by Marshals in certain cases;" a bill, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes;" a bill, entitled "An act in addition to an act for fixing the Military Peace Establishment of the United States;" and a bill, entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds, received in the actual service of the United States during the Revolutionary war, and for other purposes;" in which bills they desire the concurrence of the Senate.

The four bills last brought up for concurrence were severally read.

On the question to agree to the second reading of the bill, entitled "An act in addition to an act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war, and for other purposes;" it passed in the negative. So the bill was lost.

*Ordered,* That the three other bills last brought up for concurrence severally pass to the second reading.

Mr. JACKSON, from the managers at the conference on the bill, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," made report.

Whereupon,

On motion that the Senate so far recede from their disagreement to the amendment to the 14th section as to adopt the report of the joint committee of conference, which subjoins to the said amendment the following proviso:

*"Provided, nevertheless,* That anything in this section contained shall not be construed to make null and void any *bona fide* grant made agreeably to the laws, usages, and customs, of the Spanish Government, to an actual settler on the lands so granted for himself, and for his wife and family, or to make null and void any *bona fide* act or proceeding done by an actual settler, agreeably to the laws, usages, and customs, of the Spanish Government, to obtain a grant for lands actu-

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ally settled on by the person or persons claiming title thereto, if such settlement in either case was actually made prior to the 20th day of December, 1803: *And provided further*, That such grant shall not secure to the grantee or his assigns more than one mile square of land, together with such other and further quantity as heretofore hath been allowed for the wife and family of such actual settler, agreeably to the laws, usages, and customs, of the Spanish Government:"

It passed in the affirmative—yeas 15, nays 9, as follows:

**YEAS**—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Dayton, Ellery, Franklin, Jackson, Logan, John Smith of Ohio, Samuel Smith, Sumter, Venable, Worthington, and Wright.

**NAYS**—Messrs. Adams, Cocke, Hillhouse, Maclay, Olcott, Pickering, Plumer, Stone, and Tracy.

And the remainder of the report of the joint committee of conference was adopted.

The Senate took into consideration the amendment of the House of Representatives to the bill, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" and,

*Ordered*, That it lie for consideration.

The bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," was read the third time, and further amended; and,

*Resolved*, That this bill pass with amendments.

The bill, entitled "An act for the relief of the legal representatives of David Valenzin, deceased, and for other purposes," was read the third time, and passed.

The bill, entitled "An act in addition to an act, entitled 'An act to establish an uniform rule of naturalization, and to repeal the act heretofore passed on that subject,'" was read the third time as amended.

*Resolved*, That this bill pass with an amendment.

The bill, entitled "An act for the relief of the heirs of John Habersham," was read the third time as amended.

*Resolved*, That this bill pass with an amendment.

The bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,'" was read the third time as amended, and passed.

The bill authorizing the payment of two thousand eight hundred dollars to Philip Sloan, was read the third time, and passed.

The bill, entitled "An act to repeal a part of the act concerning Consuls and Vice Consuls, and for the further protection of American seamen," was read the second time, and ordered to the third reading.

The Senate took into consideration the amendment reported by the committee to the bill for the relief of Moses Young, and, having adopted the amendment,

*Ordered*, That the bill pass to a third reading as amended.

Mr. SAMUEL SMITH gave notice that he would, to-morrow, ask leave to bring in a bill to repeal

the first section of the act passed the third day of March, 1803, entitled "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war."

SATURDAY, March 24.

Mr. WRIGHT, from the committee to whom was referred, on the 12th instant, the bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,'" reported the bill with amendments.

Mr. DAYTON, from the committee to whom was recommitted, on the 13th instant, the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads," reported the bill amended.

On motion, that it be

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the resolution of the thirteenth instant, authorizing the adjournment of Congress on Monday the 26th, be rescinded, and that the President of the Senate and Speaker of the House of Representatives be authorized to adjourn their respective Houses on Wednesday the 28th instant;

It passed in the negative.

A motion was made, that when the Senate adjourn, it be to eleven o'clock to-morrow morning; and it passed in the negative—yeas 3, nays 21, as follows:

**YEAS**—Messrs. Armstrong, Ellery, and Samuel Smith.

**NAYS**—Messrs. Adams, Anderson, Baldwin, Breckenridge, Cocke, Dayton, Franklin, Hillhouse, Maclay, Olcott, Pickering, Plumer, John Smith of Ohio, John Smith of New York, Stone, Sumter, Tracy, Venable, White, Worthington, and Wright.

Mr. JACKSON, from the joint committee of conference, on the disagreeing votes of the two Houses, on the amendments to the bill, entitled "An act to alter and establish certain post roads, and for other purposes," reported that they could not come to an agreement, and that the Senate adhere to their amendment.

On motion, that the Senate do now resume the consideration of the motion made on the 14th instant, "that the record of the proceedings of the Senate, sitting as a Court of Impeachments, on the impeachment of John Pickering, district judge of the district of New Hampshire, be printed:"

It passed in the negative.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 23d instant, the bill, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," reported it without amendment.

A message from the House of Representatives informed the Senate that the House concur in the amendments of the Senate to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," except to the last two, in which they do not concur. They have passed a bill, en-

titled "An act supplementary to an act, entitled 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war,' in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

Mr. BALDWIN, from the committee to whom was referred, on the 23d instant, the bill, entitled "An act for imposing more specific duties on the importation of certain articles, and also for levying and collecting light-money on foreign ships or vessels," reported amendments thereto.

Mr. TRACY, from the committee to whom was referred, on the 21st instant, the bill, entitled "An act for the relief of the legal representatives of the late General Moses Hazen," reported the bill without amendment.

The Senate took into consideration the resolution of the House of Representatives, disagreeing to their two last amendments to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes;" and,

*Resolved*, That the Senate recede from the first of the said amendments disagreed to.

*Resolved*, That they do insist on their last amendment disagreed to on the said bill, ask a conference thereon, and that Messrs. WORTHINGTON and BRECKENRIDGE be managers at the same on the part of the Senate.

The Senate took into consideration the amendment of the House of Representatives to the bill, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States;'" and,

*Resolved*, That they agree thereto.

The bill, entitled "An act concerning the public buildings at the City of Washington," was read the third time; and, on motion, the bill was amended, and passed.

The bill for the relief of Moses Young was read the third time as amended, the blank filled with the words "two thousand;" and then the bill was passed.

The bill, entitled "An act to repeal a part of the act, entitled 'An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen,'" was read the third time, and passed.

The bill, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes," was read the second time, and referred to Messrs. TRACY, BRECKENRIDGE, and ANDERSON, to consider and report thereon to the Senate.

The bill, entitled "An act to authorize the adjournment of district courts, by marshals, in certain cases," was read the second time, and ordered to the third reading.

A message from the House of Representatives informed the Senate that the House have passed a bill, entitled "An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings

in each State shall be authenticated, so as to take effect in every other State," in which they desire the concurrence of the Senate.

The bill last mentioned was read, and ordered to the second reading.

The bill, entitled "An act in addition to an act for fixing the Military Peace Establishment of the United States," was read the second time, and ordered to the third reading.

The bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee,'" was read the second time, and referred to Messrs. ANDERSON, BALDWIN, and BRECKENRIDGE, to consider and report thereon to the Senate.

Mr. JACKSON submitted an amendment to the bill last mentioned; and it was referred to the said committee, to consider and report thereon.

The bill, entitled "An act relative to the compensation of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned," was read the second time, and referred to Messrs. SAMUEL SMITH, ANDERSON, and STONE, to concur and report thereon to the Senate.

The bill, entitled "An act for the relief of George Lee Davidson" was resumed; and,

*Resolved*, That this bill do not pass.

A message from the House of Representatives informed the Senate that the House adhere to their disagreement to the amendment insisted on by the Senate, to the bill, entitled "An act to alter and establish certain post roads, and for other purposes." They agree to the conference proposed by the Senate on their amendment insisted on to the bill, entitled "An act making provision for the disposal of the lands of the United States in the Indiana Territory, and for other purposes," and have appointed managers on their part.

The Senate resumed the second reading of the bill, entitled "An act to protect the commerce and seamen of the United States against the Barbary Powers;" and, on motion to strike out of the first section the words "two and a half per centum, ad valorem:" it was determined in the negative—yeas 8, nays 17, as follows:

YEAS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Mac-lay, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Sumter, Venable, Worthington, and Wright.

*Ordered*, That the bill pass to the third reading.

A message from the House of Representatives informed the Senate that the House do not concur in the amendment of the Senate to the bill, entitled "An act concerning the public buildings at the City of Washington." They insist on their disagreement to the last amendment of the Senate to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes."

The Senate took into consideration the resolution of the House of Representatives, adhering to their

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disagreement to the sixteenth amendment of the Senate to the bill, entitled "An act to alter and establish certain postroads, and for other purposes;" and on motion, that the Senate adhere to the said amendment, it passed in the negative—yeas 10, nays 16, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Franklin, Jackson, Samuel Smith, Sumter, and Worthington.

NAYS—Messrs. Adams, Dayton, Ellery, Hillhouse, Logan, Maclay, Olcott, Plumer, Israel Smith, John Smith of Ohio, John Smith of New York, Tracy, Venable, White, and Wright.

*Resolved*, That the Senate recede from their said amendment.

Mr. WORTHINGTON, from the managers at the conference to the amendment of the Senate, to follow the 17th section of the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," reported that they had agreed to modify the amendment, by inserting "three per cent." instead of "five per cent."

The Senate took into consideration the resolution of the House of Representatives, insisting on their disagreement to the said amendment; and,

*Resolved*, That they do recede therefrom.

The Senate took into consideration the resolution of the House of Representatives disagreeing to their amendment to the bill, entitled "An act concerning the public buildings at the City of Washington;" and, on motion to adhere to the amendment, it passed in the negative—yeas 12, nays 12, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Hillhouse, Maclay, Olcott, Pickering, Plumer, Sumter, Tracy, White, and Worthington.

NAYS—Messrs. Adams, Baldwin, Cocke, Ellery, Franklin, Jackson, Logan, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, and Venable.

On motion to postpone the consideration of this bill to the next session of Congress, it passed in the negative—yeas 9, nays 14, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Hillhouse, Maclay, Pickering, Plumer, Tracy, and Worthington.

NAYS—Messrs. Adams, Baldwin, Cocke, Ellery, Franklin, Jackson, Logan, Olcott, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Sumter, and Venable.

*Resolved*, That the Senate do insist on their amendment, disagreed to by the House of Representatives, to the said bill, ask a conference thereon, and that Messrs. ANDERSON and TRACY be the managers at the same on their part.

MONDAY, March 26.

Mr. ANDERSON, from the committee to whom was referred, on the 24th instant, the bill, entitled "An act supplementary to the act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee,'" reported amendments thereto; which were read.

The bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" was read the third time as amended; and,

*Resolved*, That this bill do pass with an amendment.

The bill, entitled "An act supplementary to an act, entitled 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war,'" was read the second time.

*Ordered*, That it pass to the third reading.

A message from the House of Representatives informed the Senate that the House do not concur in the amendment of the Senate to the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes.'" They agree to the resolution of the Senate asking a conference on the disagreeing votes of the two Houses, on the amendment to the bill, entitled "An act concerning the public buildings at the City of Washington," and have appointed managers on their part.

The bill, entitled "An act further to protect the commerce and seamen of the United States against the Barbary Powers," was read the third time.

On motion to strike out the second section of the bill, as follows:

SEC. 2. *And be it further enacted*, That a distinct account shall be kept of the duties imposed by this act, and the proceeds thereof shall constitute a fund, to be denominated "the Mediterranean Fund," and shall be applied solely to the purposes designated by this act. And the said additional duty shall cease and be discontinued at the expiration of three months after the ratification, by the President of the United States, of a treaty of peace with the Regency of Tripoli, unless the United States should then be at war with any other of the Barbary Powers, in which case the said additional duty shall cease and be discontinued at the expiration of three months after the ratification, by the President of the United States, of a treaty of peace with such Power: *Provided, however*, That the said additional duty shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to the day on which the said duty is to cease."

It passed in the negative—yeas 8, nays 18, as follows:

YEAS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

On motion to strike out the word "two," in the eleventh line of the first section of the bill, it passed in the negative—yeas 8, nays 17, as follows:

YEAS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

On motion to strike out from the words "a duty," inclusive, in the eleventh line of the first section of the bill to the end thereof, as follows:

"A duty of two and an half per centum ad valorem, in addition to the duties now imposed by law, shall be laid, levied, and collected, upon all goods, wares, and merchandise, paying a duty ad valorem, which shall, after the thirtieth day of June next, be imported into the United States from any foreign port or place, and an addition of ten per centum shall be made to the said additional duty in respect to all goods, wares, and merchandise, imported in ships or vessels not of the United States; and the duties imposed by this act shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, as are already prescribed by law in relation to the duties now in force on the articles in which the said additional duty is laid by this act."

It passed in the negative—yeas 7, nays 20, as follows:

YEAS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, Tracy, and White.

NAYS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Israel Smith, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

On the question to agree to the final passage of the bill, it was determined in the affirmative—yeas 20, nays 5, as follows:

YEAS—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Cocke, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Pickering, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

NAYS—Messrs. Adams, Hillhouse, Olcott, Plumer, and Tracy.

So it was *Resolved* That this bill do pass.

On motion, it was

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled,* That the resolution of the 13th instant, authorizing the adjournment of Congress on the 26th instant, be rescinded; and that the President of the Senate and Speaker of the House of Representatives be authorized to adjourn their respective Houses on Tuesday, the 27th instant.

*Ordered,* That the Secretary desire the concurrence of the House of Representatives in this resolution.

The Senate took into consideration the resolution of the House of Representatives disagreeing to the amendments to the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" and

*Resolved,* That they do adhere thereto.

Mr. TRACY, from the committee to whom was referred, on the 24th instant, the bill, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes," reported the bill with an amendment.

The bill, entitled "An act in addition to the act for fixing the Military Peace Establishment of the United States," was read the third time and passed.

The bill, entitled "An act to authorize the adjournment of district courts by marshals in certain cases," was read the third time and passed.

The Senate took into consideration the report of the committee proposing an amendment to the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads;" and,

On motion to postpone the consideration thereof until the next session of Congress, it passed in the negative—yeas 6, nays 15, as follows:

YEAS—Messrs. Adams, Ellery, Maclay, Nicholas, Pickering, and Venable.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Dayton, Franklin, Israel Smith, John Smith of Ohio, Samuel Smith, Stone, Sumter, Tracy, White, and Worthington.

*Ordered,* That this bill pass to the third reading as amended.

Mr. SAMUEL SMITH, from the committee to whom was referred, on the 24th instant, the bill, entitled "An act relative to the compensations of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned," reported it without amendment.

*Ordered,* That this bill pass to a third reading.

The bill, entitled "An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings in each State, shall be authenticated, so as to take effect in every other State,'" was read the second time, and ordered to the third reading.

The Senate resumed the second reading of the bill, entitled "An act supplementary to the act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee;" and having amended the same,

*Ordered,* That it pass to the third reading, as amended.

The Senate resumed the second reading of the bill, entitled "An act for the relief of the legal representatives of the late General Moses Hazen."

*Ordered,* That the further consideration of this bill be postponed to the first Monday in November next.

The Senate considered the amendments to the bill, entitled "An act for imposing more specific duties on the importation of certain articles, and, also, for levying and collecting light money on foreign ships and vessels;" and the amendments were agreed to.

*Ordered,* That this bill pass to the third reading as amended.

The Senate resumed the consideration of the amendments to the bill, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes;" and, having agreed to the same,

*Ordered,* That this bill pass to the third reading as amended.

The Senate resumed the consideration of the bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,'" and having amended the same,

*Ordered,* That this bill pass to the third reading as amended.



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The Senate resumed the consideration of the bill, entitled "An act relative to the compensations of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned."

*Ordered*, That this bill pass to a third reading.

The bill to provide for a more extensive distribution of the laws of the United States was read the second time; and the bill having been amended, it was ordered to the third reading.

TUESDAY, March 27.

The bill, entitled "An act supplementary to the act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," was read the third time as amended; and,

*Resolved*, That this bill do pass, with an amendment.

The bill, entitled "An act for imposing more specific duties on the importation of certain articles, and also for levying and collecting light money on foreign ships or vessels," was read the third time as amended.

*Resolved*, That this bill do pass, with amendments.

The bill, entitled "An act for the appointment of an additional judge for the Mississippi Territory, and for other purposes," was read the third time as amended.

*Resolved*, That this bill do pass, with an amendment.

The bill, entitled "An act supplementary to the act, entitled 'An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war,'" was read the third time; and the further consideration of the bill was postponed until the first Monday of December next.

The bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads," was read the third time as amended.

*Resolved*, That this bill do pass, with an amendment.

The bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,'" was read the third time as amended.

*Resolved*, That this bill pass, with an amendment.

The bill, entitled "An act relative to the compensations of certain officers of the customs, and to provide for appointing a surveyor in the district therein mentioned," was read the third time, and passed.

The bill to provide for a more extensive distribution of the laws of the United States was read the third time, and, being further amended, the bill was passed.

Mr. ANDERSON, from the managers at the conference on the disagreeing votes of the two Houses on the amendment to the bill, entitled "An act concerning the public buildings at the City of Washington," reported that they could come to

no agreement; but that it was the opinion of the managers, on the part of the Senate, that the bill be postponed to the next session of Congress.

Whereupon, a motion was made, that the further consideration of this bill be postponed until the next session of Congress; and it passed in the negative—yeas 5, nays 19, as follows:

YEAS—Messrs. Anderson, Hillhouse, Maclay, Plumer, and Tracy.

NAYS—Messrs. Adams, Baldwin, Breckenridge, Cocke, Dayton, Ellery, Franklin, Jackson, Logan, Nicholas, Olcott, Pickering, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

On the question to recede from their amendment insisted on to the said bill, it passed in the affirmative—yeas 17, nays 7, as follows:

YEAS—Messrs. Adams, Baldwin, Cocke, Dayton, Ellery, Franklin, Jackson, Logan, Nicholas, Olcott, Pickering, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, and Wright.

NAYS—Messrs. Anderson, Breckenridge, Hillhouse, Maclay, Plumer, Tracy, and Worthington.

A message from the House of Representatives informed the Senate that the House have appointed a committee on their part, jointly with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him of the proposed recess of Congress; and they desire the appointment of a committee on the part of the Senate. They concur in the bill, entitled "An act to provide for a more general distribution of the laws of the United States," with an amendment, in which they desire the concurrence of the Senate.

The bill, entitled "An act supplementary to the act, entitled 'An act to prescribe the mode in which the public acts, records, and judicial proceedings in each State, shall be authenticated so as to take effect in every other State,'" was read the third time, and passed.

The Senate took into consideration the amendment proposed by the House of Representatives to the bill, entitled "An act to provide for a more extensive distribution of the laws of the United States;" and,

*Resolved*, That they do concur therein.

The Senate took into consideration the resolution of the House of Representatives for the appointment of a joint committee to wait on the President of the United States, and notify him of the proposed recess of Congress; and,

*Resolved*, That they do concur therein, and that Mr. BALDWIN be the committee on their part.

On motion, it was

*Resolved*, That the Secretary of the Senate be authorized to pay, out of the contingent fund of this House, the sum of two hundred dollars to each of the clerks in his office, two hundred dollars to the Sergeant-at-Arms, and Doorkeeper, each, and to the Chaplain of this House the sum of one hundred and fifty dollars, in addition to their usual compensation, for their extra services during the present session; and to the two attendants, Thomas Harvey, William Roberts, and also to Michael Tilghman, fifty dollars each.

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Mr. BALDWIN, from the joint committee, reported that they had waited on the President of the United States, and notified to him the proposed recess of the two Houses; to which the President of the United States replied that he had no further communications to make to Congress.

*Ordered*, That the Secretary notify the House of Representatives that the Senate, having finished the business before them, are about to adjourn.

A message from the House of Representatives informed the Senate that the House, having finished the business before them, are about to adjourn to the first Monday in November next.

The PRESIDENT then adjourned the Senate to the first Monday in November next.

## EXTRACTS FROM

## EXECUTIVE JOURNAL OF THE SENATE.

MONDAY, October 17, 1803.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*Gentlemen of the Senate:*

In my message of this day to both Houses of Congress, I explained the circumstances which had led to the conclusion of conventions with France, for the cession of the Province of Louisiana to the United States. Those conventions are now laid before you, with such communications relating to them as may assist in deciding whether you will advise and consent to their ratification.

The ratification of the First Consul of France is in the hands of his *Chargé des Affaires* here, to be exchanged for that of the United States, whensoever, before the 30th instant, it shall be in readiness.

OCT. 17, 1803.

TH. JEFFERSON.

The Message, Treaty, Conventions, and papers accompanying, were in part read.

*Ordered*, That the Message, Treaty, and two Conventions, be printed, in confidence, for the use of the members.

TUESDAY, October 18.

The Senate resumed the reading of the papers referred to in the Message of the President of the United States of the 17th instant.

On motion, the Treaty and Conventions communicated with the Message of the President of the United States, were read the second time.

WEDNESDAY, October 19.

The Treaty and Conventions with the French Republic were read the third time, in paragraphs; and, after debate, a motion was made by Mr. JACKSON, and seconded by Mr. BRADLEY, that it be

*"Resolved, (two-thirds of the Senators present concurring therein.)* That the Senate do advise and consent to the ratification of the Treaty, made and concluded at Paris, the 11th day of Floreal, in the 11th year of the French Republic, (30th April, 1803,) be-

tween the United States and the said French Republic, as well as to the two conventions connected therewith, and made and concluded between the two Republics, on the same day, by Robert R. Livingston and James Monroe, Ministers Plenipotentiary on the part of the United States, and Barbe Marbois, Minister of the Public Treasury of the French Republic, on the part of the said Republic."

*Ordered*, That this motion lie until to-morrow.

THURSDAY, October 20.

The Senate resumed the consideration of the Treaty and Conventions made with the First Consul of France; and, on the question, Will the Senate agree to the ratification of the same? it passed in the affirmative—yeas 24, nays 7, as follows:

YEAS—Messrs. Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Butler, Clinton, Cocke, Condit, Dayton, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, Samuel Smith, Stone, Taylor, Worthington, and Wright.

NAYS—Messrs. Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

So it was *Resolved*, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the Treaty, as well as to the ratification of the two Conventions connected therewith, made and concluded at Paris, on the 10th day of Floreal, in the 11th year of the French Republic, (30th April, 1803,) between the United States and the said French Republic, by Robert R. Livingston and James Monroe, Ministers Plenipotentiary on the part of the United States, and Barbe Marbois, Minister of the Public Treasury of the French Republic, on the part of the said Republic."

*Ordered*, That the Secretary lay this resolution before the President of the United States.

A motion was made that it be

*"Resolved*, That the President of the United States be requested to obtain from the French Republic, such a modification of the third article of the Treaty as will leave the Government of the United States at liberty to make such future arrangements, or disposition of the Territory of Louisiana, as, in their wisdom, may best promote the general interest; always securing to the free inhabitants of Louisiana protection to their persons, security to their property, and the free and open enjoyment of their religion."

*Ordered*, That this motion lie until to-morrow.

FRIDAY, October 21.

The Senate took into consideration the motion made yesterday, for a modification of the third article of the Treaty between the United States and the First Consul of France, respecting Louisiana.

*Ordered*, That it be printed, confidentially, for the use of the Senate.

SATURDAY, October 22.

The Senate proceeded to consider the motion made on the 20th instant for a modification of the third article of the French Treaty.

*Ordered*, That it be postponed to Monday next.

*Executive Proceedings.*

MONDAY, October 24.

The following Message was received from the  
PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

I lay before you the Convention signed on the 12th day of May last between the United States and Great Britain, for settling their boundaries in the Northeastern and Northwestern parts of the United States, which was mentioned in my general message of the 17th instant, together with such papers relating thereto, as may enable you to determine whether you will advise and consent to its ratification.

OCT. 24, 1803.

TH. JEFFERSON.

The Message and papers were read, and ordered to lie for consideration, and that the treaty be printed, confidentially, for the use of the Senate.

On motion, to resume the consideration of the resolution moved for on the 20th instant, for a modification of the treaty respecting Louisiana, it passed in the negative.

THURSDAY, October 27.

The Convention with Great Britain respecting the Eastern boundaries of the United States was read the second time.

FRIDAY, October 28.

The Senate resumed the consideration of the motion made on the 20th instant for a modification of the treaty respecting Louisiana; and, after debate,

*Ordered*, That the further consideration thereof be postponed until to-morrow.

MONDAY, October 31.

The Senate resumed the consideration of the British Convention for fixing the Eastern boundaries of the United States:

A motion was made that it be

*Resolved*, That the Senate (two-thirds of the Senators present concurring) do advise and consent that the Convention between the United States of America and His Britannic Majesty, for determining boundaries, pursuant to the provisions contained in the Treaty of Peace of 1783, concluded at London on the 13th day of May, 1803, be ratified." Whereupon,

A motion was made to amend the fifth article by inserting, after the word "Commissioners," in the first instance, "upon the demand of either Government," and to add the word "immediately," after the word "shall," in the next line.

And, after debate, adjourned.

FRIDAY, November 4.

The Senate resumed the consideration of the Convention made between the United States and His Britannic Majesty, for fixing the Eastern boundaries of the United States; and the motion for amendment being withdrawn after debate, the further consideration thereof was postponed to Monday next.

The Senate took into consideration the motion

made on the 20th of October for a modification of the third article of the treaty between the United States and the First Consul of France respecting Louisiana.

And on the question, Will the Senate agree to the resolution moved for? it passed in the negative—yeas 9, nays 22, as follows:

YEAS—Messrs. Anderson, Baldwin, Butler, Dayton, Jackson, Logan, Potter, Wells, and White.

NAYS—Messrs. Adams, Bailey, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Hillhouse, Maclay, Nicholas, Olcott, Pickering, Plumer, Israel Smith, John Smith, Stone, Taylor, Tracy, Worthington, and Wright.

TUESDAY, November 15.

The Senate resumed the consideration of the treaty made between the United States and His Britannic Majesty for establishing the Eastern boundaries of the United States.

*Ordered*, That it be referred to Messrs. ADAMS, NICHOLAS, and WRIGHT, to inquire and report thereon to the Senate.

FRIDAY, November 25.

*Ordered*, That a committee be appointed to inquire if any, and what, further proceedings are necessary by the Senate, on the Convention between the United States and the King of Spain; and that Messrs. BRADLEY, JACKSON, and BALDWIN, be the committee to inquire and report thereon to the Senate.

WEDNESDAY, December 21.

The following Message was received from the  
PRESIDENT OF THE UNITED STATES:

*To the Senate of the United States:*

On the 11th of January last, I laid before the Senate, for their consideration and advice, a Convention with Spain, on the subject of indemnities for spoliations on our commerce, committed by her subjects during the late war; which Convention is still before the Senate. As this instrument did not embrace French seizures and condemnations of our vessels in the ports of Spain, for which we deemed the latter Power responsible, our Minister at that Court was instructed to press for an additional article, comprehending that branch of wrongs. I now communicate what has since passed on that subject. The Senate will judge whether the prospect it offers will justify a longer suspension of that portion of indemnities conceded by Spain, should she now take no advantage of the lapse of the period for ratification.

As the settlement of the boundaries of Louisiana will call for new negotiations, on our receiving possession of that province, the claims not obtained by the Convention, now before the Senate, may be incorporated into those discussions.

DEC. 21, 1803.

TH. JEFFERSON.

The Message and papers accompanying it were read, and ordered to lie for consideration.

*Ordered*, That Mr. VENABLE be of the committee appointed on the 15th of November, on an article of the British Treaty, in place of Mr. NICHOLAS, absent.

*Executive Proceedings.*

THURSDAY, December 22.

Mr. BRADLEY reported, from the committee appointed on the 25th of November, on the Spanish Convention, that the Message of the President of the United States, of December 21st, gave the Senate all the information within their power to obtain. Whereupon,

*Ordered*, That the committee be discharged.

A motion was made by Mr. BRADLEY, that it be

*"Resolved*, That the Message and documents communicated by the President of the United States, to the Senate, on the 21st instant, be referred to a select committee, to consider and report whether any, and, if any, what, further proceedings ought to be had by the Senate, in relation to the Message on the disclosures made by the same."

And it was agreed that this motion lie for consideration.

*Ordered*, That the Message of the President of the United States, of 21st December, with the communications referred to, be the order of the day for the second Monday in January next.

WEDNESDAY, December 28.

Mr. ADAMS, from the committee to whom was referred, on the 15th ult., the Convention for ascertaining boundaries between the United States and the British Government, concluded at London, May 12, 1803, made report; and it was agreed that the consideration thereof be the order of the day for to-morrow.

WEDNESDAY, January 4, 1804.

The Senate resumed the consideration of the British Convention, for fixing the Eastern boundaries of the United States, and the motion made to ratify the same, the 31st October last; and, after debate, the Senate adjourned.

MONDAY, January 9.

The Senate resumed the consideration of the Convention between His Catholic Majesty and the United States; and a motion was made that it be

*"Resolved*, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the Convention entered into between His Catholic Majesty and the United States, concluded at Madrid, on the 11th day of August, 1802."

On motion to amend the resolution, by adding the following words:

"It being understood that this Convention shall embrace all the losses, damages, and injuries sustained by the subjects of Spain, and citizens of the United States of America, in consequence of the excesses and irregularities committed by Spanish subjects, or American citizens, whether being private persons, or officers, or agents of either Government."

It passed in the negative—yeas 8, nays 19, as follows:

YEAS—Messrs. Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

NAYS—Messrs. Adams, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Samuel Smith, Stone, Venable, and Worthington.

And, on the question to agree to the original motion for ratification, it passed in the affirmative—yeas 21, nays 7, as follows:

YEAS—Messrs. Adams, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, John Smith of Ohio, Samuel Smith, Stone, Venable, White, and Worthington.

NAYS—Messrs. Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, and Wells.

So it was

*"Resolved*, (two-thirds of the Senators present concurring therein,) That the Senate do advise and consent to the ratification of the Convention entered into between His Catholic Majesty and the United States, concluded at Madrid, on the 11th day of August, 1802."

*Ordered*, That the Secretary lay this resolution before the President of the United States.

The Senate resumed the consideration of the Convention between the United States and His Britannic Majesty, for fixing the boundaries between Great Britain and the United States; and, on motion, to advise and consent to the ratification, with the exception of the 5th article, it was agreed to postpone the subject until to-morrow.

Agreeably to the order of the day, the Senate proceeded to consider the motion made on the 22d of December last, that it be

*"Resolved*, That the Message and documents communicated by the President of the United States to the Senate, on the 21st instant, be referred to a select committee, to consider and report whether any, and, if any, what, further proceedings ought to be had by the Senate, in relation to the Message, or the disclosures made by the same."

The motion was adopted; and

*Ordered*, That Messrs. BRADLEY, BALDWIN, and JACKSON, be the committee.

WEDNESDAY, February 8.

On motion, it was agreed that the motion to ratify the Convention between the United States and His Britannic Majesty, for fixing the boundaries between the United States and Great Britain, be the order of the day for to-morrow.

On motion, it was agreed that the injunction of secrecy, contained in the 37th rule of the Senate, so far as relates to the Convention ratified on the 9th day of January last, between the United States and His Catholic Majesty, be taken off.

THURSDAY, February 9.

The Senate resumed the motion made for a ratification of the British Convention, for fixing the boundaries between the United States and Great Britain. Whereupon, a motion was made to except the 5th article; and, on the question, Will the Senate consent and advise to the ratification of the 5th article? it passed in the negative—yeas 9, nays 22, as follows:

*Executive Proceedings.*

**YEAS**—Messrs. Adams, Bradley, Dayton, Hillhouse, Olcott, Pickering, Plumer, Israel Smith, and Tracy.

**NAYS**—Messrs. Anderson, Armstrong, Breckenridge, Baldwin, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, John Smith, Stone, Sumter, Venable, Wells, Worthington, and Wright.

On the question, Will the Senate consent and advise to the ratification of the Convention, with the exception of the 5th article? it passed unanimously in the affirmative—yeas 31, as follows:

**YEAS**—Messrs. Adams, Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Dayton, Ellery, Franklin, Hillhouse, Jackson, Logan, Maclay, Nicholas, Olcott, Pickering, Plumer, Potter, Israel Smith, John Smith of Ohio, Samuel Smith, Stone, Sumter, Tracy, Venable, Wells, Worthington, and Wright.

So it was *Resolved*, That the Senate do advise and consent to the ratification of the Convention between the United States and His Britannic Majesty, for fixing the boundaries between the United States and Great Britain, concluded at London, May 12, 1803, with the exception of the 5th article.

*Ordered*, That the Secretary lay this resolution before the President of the United States.

On motion, that the injunction of secrecy upon the members of the Senate be taken off, in respect to the Convention of boundaries with Great Britain, signed at London, on the 12th of May, 1803:

*Ordered*, That this motion lie on the table.

FRIDAY, February 10.

The Senate resumed the motion made yesterday, "that the injunction of secrecy upon the members of the Senate, be taken off, in respect to the Convention of boundaries with Great Britain, signed at London, on the 12th of May, 1803;" and, after debate, it was agreed that the consideration thereof be postponed.

FRIDAY, February 24.

Mr. BRADLEY reported, from the committee to whom was referred, on the 9th ultimo, the Message from the President of the United States, of 21st December, and the documents accompanying the same; and the report was read.

*Ordered*, That it be printed, under an injunction of secrecy, for the use of the Senate.

The Senate resumed the consideration of the motion, made on the 9th instant, "that the injunction of secrecy, upon the members of the Senate, be taken off, in respect to the Convention of boundaries with Great Britain, signed at London, on the 12th day of May, 1803;" and, on the question to agree to this motion, it was determined in the negative—yeas 11, nays 20, as follows:

**YEAS**—Messrs. Adams, Dayton, Hillhouse, Logan, Olcott, Pickering, Plumer, Tracy, Wells, White, and Wright.

**NAYS**—Messrs. Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Jackson, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Stone, Sumter, Venable, and Worthington.

TUESDAY EVENING, March 27.

The Senate took into consideration the report of the committee, to whom was referred, on the 9th of January, the Message of the President of the United States, of December 21, as follows:

IN SENATE OF THE UNITED STATES,  
February 24, 1804.

Mr. BRADLEY, from the committee appointed on the 9th of January, to consider and report whether any, and, if any, what further proceedings ought to be had by the Senate, in relation to the Message and documents communicated by the President of the United States, on the 21st of December last, submitted the following report:

Upon a careful examination of the Message and documents communicated by the President, on the 21st of December, your committee notice certain unauthorized acts and doings of individuals, contrary to law and highly prejudicial to the rights and sovereignty of the United States, tending to defeat the measures of the Government thereof; and which, in their opinion, merit the consideration of the Senate.

They find that, on the 15th of November, 1802, and before and subsequent to that day, divers controversies and disputes had arisen between the Governments of the United States and Spain, concerning certain seizures and condemnations of the vessels and effects of the citizens of the United States, in the ports of Spain, and for which the Government of Spain was deemed responsible, and in the prosecution of which, for indemnification, the Minister of the United States, near the Court of Spain, had been instructed to press that Government, by friendly negotiation, to provide for those wrongs.

Your committee find, while said negotiation was pending, and the said disputes and controversies in no wise settled or adjusted, that Jared Ingersoll, William Rawle, Joseph B. McKean, and P. S. Du Ponceau, of the city of Philadelphia, did, at said Philadelphia, on the same 15th of November, 1802, and Edward Livingston, of the said city of New York, did, at said New York, on the 3d day of the same November, in violation of the act, entitled "An act for the punishment of certain crimes therein specified," passed the 30th day of January, 1799, commence and carry on a correspondence and intercourse with the said Government of Spain, and with the agents thereof; and, as the committee believe, with an intent to influence the measures and conduct of the Government of Spain, and to defeat the measures of the Government of the United States, and did, then and there, counsel, advise, aid, and assist, in such correspondence, with intent as aforesaid.

Your committee, with the knowledge of these facts, are compelled to observe, that however there might exist in Senate a great reluctance to express any opinion in relation to the proceedings in the ordinary course of criminal jurisprudence, yet, when they reflect on the nature of the offence, the improbability of the ministers of the law ever coming to the knowledge thereof without the aid of the Executive, and the delicate situation of the Executive in relation to the subject, duty seems to demand, and propriety to justify, their expressing an opinion in favor of that aid, without which, in their judgment, the justice of the nation would be exposed to suffer.

Your committee have no doubt that precedents may be adduced, and from the best authority, to justify such a measure, and warrant the proceedings with safety, to

*Trial of Judge Pickering.*

the remedial justice of the law, which admits of no rules, or pretended rules, uncorrected and uncontrolled by circumstances, the certain result of which would be the failure of justice.

With these impressions, your committee respectfully offer to the Senate the following resolutions :

*Resolved*, That the President of the United States be requested to cause to be laid before the Attorney General, all such papers, documents, and evidence, as he may deem expedient, and which relate to any unauthorized correspondence and intercourse, carried on by Jared Ingersoll, William Rawle, Joseph B. McKean, P. S. Du Ponceau, and Edward Livingston, with the Government of Spain, or with the agents thereof, with an intent to influence the measures and the conduct of the Government of Spain, or to defeat the measures of the Government of the United States, in relation to certain disputes and controversies between the said Governments.

*Resolved*, That, if, in the opinion of the Attorney General, such papers, documents, evidence, or such other evidence as may be presumed, from any that is *particeps criminis*, shall be deemed sufficient to warrant a prosecution of the aforesaid persons, or either of them, that the President of the United States be, and hereby is, requested to instruct the proper law officer to commence a prosecution, at such time and in such manner as he may judge expedient, against Jared Ingersoll, William Rawle, Joseph B. McKean, P. S. Du Ponceau, and Edward Livingston, or either of them, on the act, entitled "An act for the punishment of certain crimes therein specified." And that he be requested to furnish the Attorney on the part of the United States, for the purpose of carrying on said prosecution, with such papers, documents, and evidence, from the Executive Department of the Government, as he may deem expedient and necessary.

A motion was made by Mr. WHITE, that it be

*Resolved*, That the Senate will take no further order on the report made to them respecting the opinions of certain lawyers, relative to the Convention between the United States and His Catholic Majesty; the Senate not considering it within the province of their duty to do so, and that the injunction of secrecy upon the same be taken off.

*Ordered*, That the consideration of this resolution be postponed to the first Monday in November next.

### TRIAL OF JUDGE PICKERING,

*On a charge of High Crimes and Misdemeanors, exhibited to the Senate of the United States.*

#### IN SENATE OF THE UNITED STATES.

THURSDAY, March 3, 1803.

A message was received from the House of Representatives, by Messrs. NICHOLSON, and RANDOLPH, two of the members of the said House, in the words following :

*Mr. President* : We are commanded in the name of the House of Representatives, and of all the people of the United States, to impeach John Pickering, judge of the district court of the district of New Hampshire, of high crimes and misdemeanors; and to acquaint the

Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same.

We are further commanded to demand that the Senate take order for the appearance of the said John Pickering, to answer to the said impeachment.

*Ordered*, That the message received this day from the House of Representatives, respecting the impeachment of John Pickering, judge of a district court, be referred to Messrs. TRACY, CLINTON, and NICHOLAS, to consider and report thereon.

Mr. TRACY from the committee appointed on the subject, made the following report; which was adopted, and the House of Representatives notified accordingly :

Whereas the House of Representatives have this day, by two of their members, Messrs. Nicholson and Randolph, at the bar of the Senate, impeached John Pickering, judge of the district court for the district of New Hampshire, of high crimes and misdemeanors, and have acquainted the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same. And have likewise demanded that the Senate take order for the appearance of the said John Pickering, to answer to the said impeachment.

Therefore, *Resolved*, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

THURSDAY, October 27.

A motion was made that the Senate adopt the following resolution :

*Resolved*, That a committee be appointed to prepare the process to compel the attendance of John Pickering to answer the charge exhibited against him by the House of Representatives at their last session.

*Ordered*, That this motion lie on the table.

MONDAY, November 14.

On motion, the Senate resumed the consideration of the resolution passed on the 27th of October last, respecting the impeachment of John Pickering; and having agreed to an amendment thereto,

*Resolved*, That a committee be appointed to inquire if any and what further proceedings, at present, ought to be had by the Senate respecting the impeachment of John Pickering, made at the bar of this Senate by two members of the House of Representatives, on the last day of the last session of Congress; and

*Ordered*, That Messrs. TRACY, BRADLEY, BALDWIN, WRIGHT, and COCKE, be the committee to consider and report thereon to the Senate.

TUESDAY, January 3, 1804.

Mr. TRACY from the committee to whom was referred the inquiry, "If any and what, further proceedings at present ought to be had by the Senate respecting the impeachment of John Pickering, made at the bar of the Senate, by two members of the House of Representatives, on the last day of the last session of Congress," reported:

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"That they find the following facts, which have an immediate relation to the subject committed to them, viz: 'On the last day of the last session of Congress, two members of the House of Representatives came to the Senate, and in the name of the House, and of all the people of the United States, verbally impeached John Pickering, district judge of the district of New Hampshire, of high crimes and misdemeanors, without any specification; and likewise, they verbally acquainted the Senate that the said House of Representatives would in due time exhibit particular articles of impeachment against him, the said Pickering, and make good the same. And they verbally demanded that the Senate should take order for the appearance of the said John Pickering, to answer to the said impeachments;' and that said verbal declaration of impeachment was committed by the Senate to a select committee, who reported thereon, in the following words, viz: '*Resolved*, 'That the Senate will take proper order thereon, (that is, of the verbal impeachment aforesaid,) of which 'due notice shall be given to the House of Representatives,' of which resolution, the Secretary of the Senate gave information to the House of Representatives.

"With these facts in view, your committee have attended to the Constitutional powers vested in the Senate as a Court of Impeachment, and they find that "judgment in case of impeachment shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under the United States;" and that "the party convicted shall nevertheless be liable and subject to indictment, trial, judgment, and punishment, according to law." Hence your committee suppose that no power is Constitutionally vested in the Senate to take into custody, or hold the body of the person impeached for trial; but that a notification to the party of the impeachment, with a copy of the articles exhibited, is all the process requisite in the case; and that it is optional with the party to appear *propria persona*, by attorney, or not at all; and that after the notice given as aforesaid, it is competent for the Senate to proceed to a trial and judgment on said impeachment, whether the party shall appear by himself, his attorney, or not at all. And although your committee would not in the smallest degree interfere with the House of Representatives, in the manner of instituting the process of impeachment, since the *sole right* of impeaching is vested by the Constitution in that House, yet they believe the Senate, in common with other Courts, have the sole power, while acting as a Court of Impeachments, to regulate all forms as well as substance of impeachments which shall be presented to them, and all proceedings to be had thereon. They therefore are of opinion, that at present no further proceeding ought to be had by the Senate respecting the verbal impeachment of John Pickering, made at the bar of the Senate by two members of the House of Representatives, on the last day of the last session of Congress; and that in strict and proper construction of the Constitution, there is no impeachment before the Senate, until exhibited to them by the House of Representatives, in written articles.

On a full view of the subject, the committee respectfully submit for the consideration and adoption of the Senate the following resolution, viz:

"*Resolved*, That the Senate cannot with propriety take any order upon the verbal notification to them by the House of Representatives, on the last day of the last session of Congress, that they did impeach John Pickering of high crimes and misdemeanors. And

that all proceedings thereon by the Senate must be deferred until written articles shall, in due form, be presented by said House of Representatives."

A message from the House of Representatives informed the Senate that the House of Representatives have appointed managers on their part to conduct the impeachment against John Pickering, judge of the district court of New Hampshire, and have also directed the said managers to carry to the Senate the articles agreed upon by the House of Representatives, to be exhibited against the said John Pickering.

On motion, the Senate took into consideration the report of the committee, made this day, on what further proceedings, at present, ought to be had by the Senate respecting the impeachment of John Pickering; and on motion, it was agreed that the report be postponed.

*Resolved*, That at twelve o'clock, to-morrow, the Senate will resolve itself into a Court of Impeachments, at which time, the following oath or affirmation, shall be administered by the Secretary to the President of the Senate, and by him to each member of the Senate, viz:

"I solemnly swear, or affirm, (as the case may be) that, in all things appertaining to the trial of the impeachment of John Pickering, Judge of the district court of the district of New Hampshire, I will do impartial justice, according to law."

Which court of impeachments, being thus formed, will, at the time aforesaid, receive the managers appointed by the House of Representatives, to exhibit articles of impeachment, in the name of themselves and of all the people of the United States, against John Pickering, judge of the district court for the district of New Hampshire, pursuant to notice given to the Senate this day by the House of Representatives, that they had appointed managers for the purpose aforesaid.

*Ordered*, That the Secretary lay this resolution before the House of Representatives.

*Ordered*, That a committee be appointed to search the journals, and report precedents in cases of impeachment, and that Messrs. TRACY, BRADLEY, BALDWIN, WRIGHT, and COCKE, to whom it was referred on the 14th of November last to consider and report, if any, what further proceedings ought to be had by the Senate respecting the impeachment of John Pickering, be this committee.

#### WEDNESDAY, January 4.

Mr. TRACY from the committee appointed yesterday to examine precedents and prepare forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors, reported, in part, that it be

*Resolved*, That, after the managers of the impeachment shall be introduced to the bar of the Senate, and shall have signified that they are ready to exhibit articles of impeachment against John Pickering, the President of the Senate shall direct the Sergeant-at-Arms to make proclamation; who shall, after making proclamation, repeat the following words: "All persons are commanded to keep silence on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States, sitting as a Court of



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Impeachments, articles of impeachment against John Pickering, judge of the district court for the district of New Hampshire."

After which the articles shall be exhibited, and then the President of the Senate shall inform the managers that the Senate will take proper order on the subject of the impeachment, of which due notice shall be given to the House of Representatives.

And the report was adopted.

Agreeably to the resolution of yesterday, the Senate proceeded to organize the Court.

The Secretary administered the following oath to the President.

"You solemnly swear that, in all things appertaining to the trial of the impeachment of John Pickering, judge of the district court of the district of New Hampshire, you will do impartial justice, according to law."

The President administered the oath, respectively, to Messrs. Adams, Armstrong, Anderson, Bailey, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Hillhouse, Jackson, Olcott, Pickering, Potter, Israel Smith, Samuel Smith, John Smith, Tracy, Venable, Wells, and Worthington; and the affirmation to Messrs. Logan, Maclay, and Plumer.

A message was received from the House of Representatives.

The managers on the part of the House of Representatives, Messrs. Nicholson, Early, Rodney, Eustis, John Randolph, jr., Samuel L. Mitchell, George W. Campbell, Blackledge, Boyle, Joseph Clay, and Newton, were admitted; and Mr. Nicholson, the chairman, announced that they were the managers instructed by the House of Representatives to exhibit certain articles of impeachment against John Pickering, district judge of the district of New Hampshire.

They were requested by the President to take seats assigned them within the bar.

The Sergeant-at-Arms was directed to make proclamation, in the words following:

Oyes! Oyes! Oyes!—All persons are commanded to keep silence on pain of imprisonment, while the grand inquest of the nation is exhibiting to the Senate of the United States, sitting as a Court of Impeachments, articles of impeachment against John Pickering, judge of the district court of the district of New Hampshire.

The managers then rose, and Mr. NICHOLSON, their chairman, read the articles, as follows:

Articles exhibited by the House of Representatives of the United States, in the name of themselves and of all the people of the United States, against JOHN PICKERING, judge of the district court of the district of New Hampshire, in maintenance and support of their impeachment against him, for high crimes and misdemeanors.

ARTICLE 1. That whereas George Wentworth, surveyor of the district of New Hampshire, did, in the port of Portsmouth, in the said district, on waters that are navigable from the sea by vessels of more than ten tons burden, on the fifteenth day of October, in the year one thousand eight hundred and two, seize the ship called the Eliza, of about two hundred and eighty-five tons burden, whereof William Ladd was late master, together with her furniture, tackle, and apparel, alleging that there had been unladen from on board of said ship,

contrary to law, sundry goods, wares, and merchandise, of foreign growth and manufacture, of the value of four hundred dollars and upwards, and did likewise seize on land within the said district, on the seventh day of October, in the year one thousand eight hundred and two, two cables of the value of two hundred and fifty dollars, part of the said goods, which were alleged to have been unladen from on board the said ship as aforesaid, contrary to law; and whereas Thomas Chadbourne, a deputy marshal of the said district of New Hampshire, did, on the sixteenth day of October, in the year one thousand eight hundred and two, by virtue of an order of the said John Pickering, judge of the district court of the said district of New Hampshire, arrest and detain in custody, for trial, before the said John Pickering, judge of the said district court, the said ship called the Eliza, with her furniture, tackle, and apparel, and also the two cables aforesaid: and whereas, by an act of Congress, passed on the second day of March, in the year one thousand seven hundred and eighty-nine, it is among other things provided, that "upon the prayer of any claimant to the court, that any ship or vessel, goods, wares, or merchandise, so seized and prosecuted, or any part thereof, should be delivered to such claimant, it shall be lawful for the court to appoint three proper persons to appraise such ship or vessel, goods, wares, or merchandise, who shall be sworn in open court for the faithful discharge of their duty; and such appraisement shall be made at the expense of the party on whose prayer it is granted; and on the return of such appraisement, if the claimant shall, with one or more sureties, to be approved of by the court, execute a bond in the usual form to the United States, for the payment of a sum equal to the sum of which the ship or vessels, goods, wares, or merchandise, so prayed to be delivered and appraised, and moreover produce a certificate from the collector of the district wherein such trial is had, and of the naval officer thereof, if any there be, that the duties on the goods, wares, and merchandise, or tonnage duty on the ship or vessel, so claimed, have been paid or secured, in like manner as if the goods, wares, or merchandise, ship or vessel, had been legally entered, the court shall, by rule, order such ship or vessel, goods, wares, or merchandise, to be delivered to the said claimant." Yet the said John Pickering, judge of the said district court, of the said district of New Hampshire, the said act of Congress not regarding, but with intent to evade the same, did order the said ship called the Eliza, with her furniture, tackle, and apparel, and the said two cables, to be delivered to a certain Eliphalet Ladd, who claimed the same, without his, the said Eliphalet Ladd's producing any certificate from the collector and naval officer of the said district, that the tonnage duty on the said ship, or the duties on the said cables, had been paid or secured, contrary to his trust and duty as judge of the said district court, against the laws of the United States, and to the manifest injury of their revenue.

ART. 2. That whereas, at a special district court of the United States, begun and held at Portsmouth, on the eleventh day of November, in the year one thousand eight hundred and two, by John Pickering, judge of said court, the United States, by Joseph Whipple, their collector of said district, having libelled, propounded and given the said judge to understand and be informed, that the said ship Eliza, with her furniture, tackle, and apparel, had been seized as aforesaid, because there had been unladen therefrom, contrary to law, two cables and one hundred pieces of check, of the value of four hundred dollars and upwards, and having prayed in

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their said libel, that the said ship, with her furniture, tackle and apparel, might, by the said court, be adjudged to be forfeited to the United States, and be disposed of according to law, and a certain Eliphalet Ladd, by his proctor and attorney, having come into the said court, and having claimed the said ship Eliza, with her tackle, furniture, and apparel, and having denied that the said two cables, and the said one hundred pieces of check, had been unladen from the said ship contrary to law, and having prayed the said court that the said ship, with her furniture, tackle, and apparel, might be restored to him, the said Eliphalet Ladd, the said John Pickering, judge of the said district court, did proceed to the hearing and trial of the cause, thus depending between the United States on the one part, claiming the said ship Eliza, with her furniture, tackle, and apparel, as forfeited by law, and the said Eliphalet Ladd on the other part, claiming the said ship Eliza, with her furniture, tackle, and apparel, in his own proper right; and whereas John S. Sherburne, Attorney for the United States, in and for the said district of New Hampshire, did appear in the said district court, as his special duty it was by law, to prosecute the said cause in behalf of the United States, and did produce sundry witnesses to prove the facts charged by the United States in their libel, filled by their collector as aforesaid, in the said court, and to show that the said ship Eliza, with her tackle, furniture, and apparel, was justly forfeited to the United States, and did pray the said court that the said witnesses might be sworn in behalf of the United States; yet the said John Pickering, being then judge of the said district court, and then in court sitting, with intent to defeat the just claims of the United States, did refuse to hear the testimony of the said witnesses so as aforesaid produced in behalf of the United States, and without hearing the said testimony so adduced in behalf of the United States, in the trial of the said cause, did order and decree the said ship Eliza, with her furniture, tackle, and apparel, to be restored to the said Eliphalet Ladd, the claimant, contrary to his trust and duty, as judge of the said district court, in violation of the laws of the United States, and to the manifest injury of their revenue.

ART. 3.—That whereas it is provided, by an act of Congress, passed on the twenty-fourth day of September, in the year one thousand seven hundred and eighty-nine, "that from all final decrees in a district court, in causes of admiralty and maritime jurisdiction, where the matter in dispute exceeds the sum or value of three hundred dollars, exclusive of costs, an appeal shall be allowed to the next circuit court, to be held in such district; and whereas, on the twelfth day of November, in the year one thousand eight hundred and two, at the trial of the aforesaid cause, between the United States on the one part, claiming the said ship Eliza, with her furniture, tackle, and apparel, as forfeited for the causes aforesaid, and the said Eliphalet Ladd on the other part, claiming the said ship Eliza, with her furniture, tackle, and apparel, in his own proper right, the said John Pickering, judge of the said district court of the district of New Hampshire, did decree that the said ship Eliza, with her tackle, furniture, and apparel, should be restored to the said Eliphalet Ladd, the claimant; and whereas the said John S. Sherburne, attorney for the United States, in and for the said district of New Hampshire, and prosecuting the said cause for and on the part of the United States, on the said twelfth day of November, in the year one thousand eight hundred and two, did, in the name and behalf of the United States, claim an appeal from the said decree of the district court, to

the next circuit court, to be held in the said district of New Hampshire, and did pray the said district court to allow the said appeal, in conformity to the provisions of the act of Congress last aforesaid; yet the said John Pickering, judge of the said district court, disregarding the authority of the laws, and wickedly meaning and intending to injure the revenues of the United States, and thereby to impair their public credit, did absolutely and positively refuse to allow the said appeal, as prayed for and claimed by the said John S. Sherburne, in behalf of the United States, contrary to his trust and duty as judge of the said district court, against the laws of the United States, to the great injury of the public revenue, and in violation of the solemn oath which he had taken to administer equal and impartial justice.

ART. 4.—That whereas, for the due, faithful, and impartial administration of justice, temperance and sobriety are essential qualities in the character of a judge, yet the said John Pickering, being a man of loose morals and intemperate habits, on the eleventh and twelfth days of November, in the year one thousand eight hundred and two, being then judge of the district court, in and for the district of New Hampshire, did appear upon the bench of the said court, for the purpose of administering justice, in a state of total intoxication, produced by the free and intemperate use of inebriating liquors; and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being, to the evil example of all the good citizens of the United States, and was then and there guilty of other high misdemeanors, disgraceful to his own character as a judge, and degrading to the honor and dignity of the United States.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any time hereafter any further articles, or other accusation or impeachment, against the said John Pickering, and also of replying to his answers which he shall make to the said articles, or any of them, and of offering proof to all and every the aforesaid articles, and to all and every other articles, impeachment, or accusation, which shall be exhibited by them, as the case shall require, do demand that the said John Pickering may be put to answer the said high crimes and misdemeanors, and that such proceedings, examinations, trials, and judgments may be thereupon had and given, as may be agreeable to law and justice.

Signed by order and in behalf of the House.

NATHANIEL MACON, *Speaker*.

JOHN BECKLEY, *Clerk*.

He then delivered the articles at the table; whereupon,

The PRESIDENT notified the managers that the Senate would take proper order on the subject of the impeachment, of which due notice should be given to the House of Representatives. And they withdrew.

The Court adjourned to 12 o'clock to-morrow.

THURSDAY, January 5.

The PRESIDENT administered the oath prescribed to Mr. DAYTON.

The Court adjourned to 12 o'clock on Monday.

MONDAY, January 9.

The oath prescribed was administered to Messrs. NICHOLAS, STONE, and WHITE.

*Trial of Judge Pickering.*

Mr. TRACY reported from the committee appointed on the 3d instant to examine precedents, and to prepare the forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors; and the report was read.

*Ordered*, That it be printed for the use of the members.

The Court adjourned to 12 o'clock to-morrow.

TUESDAY, January 10.

The Court took into consideration the report of the committee made yesterday; and, after discussion, and agreeing that the words "Michael McClary, Esq., marshal of the district of New Hampshire," in the first resolution, should be struck out,

*Ordered*, That the report be recommitted to the original committee, further to report thereon.

The Court adjourned to 12 o'clock to-morrow.

WEDNESDAY, January 11.

Mr. TRACY, from the committee appointed on the 3d instant to examine precedents, and to prepare the forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors, made report in part, which was read; and, after progress,

The Court adjourned to 11 o'clock to-morrow morning.

THURSDAY, January 12.

The Court resumed the consideration of the report made yesterday.

On motion, to fill the second blank in the form of the writ of summons, prescribing the day on which the defendant shall appear, with the words "second Tuesday of December next," it passed in the negative—yeas 6, nays 21, as follows:

YEAS—Messrs. Bradley, Brown, Condit, Jackson, Plumer, and Samuel Smith.

NAYS—Messrs. Adams, Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Franklin, Hillhouse, Logan, Maclay, Nicholas, Olcott, Pickering, Potter, I. Smith, John Smith, Tracy, Venable, Wells, White, and Worthington.

On motion, it was agreed to fill the blank with the words, "second day of March next."

On motion, it was agreed to fill the blank in the clause of the report providing that the Secretary of the Senate advance a sum of money out of the contingent fund, towards the travelling expenses of the Sergeant-at-Arms, with the words "two hundred dollars."

And the report having been further amended, was adopted, as follows:

*Resolved*, That a summons issue, directed to the said John Pickering, in the form following:

*United-States of America—set:*

The Senate of the United States of America, in their capacity of a Court of Impeachments, to John Pickering, judge of the district court for the district of New Hampshire, greeting:

Whereas the House of Representatives of the United States of America did, on the fourth day of January, exhibit to the Senate, then sitting as a Court of Impeach-

ments, articles of impeachment against you the said John Pickering, charging you with high crimes and misdemeanors, therein specially set forth in the words following, viz: [Here insert the articles] And did demand that you the said John Pickering should be put to answer the accusations of high crimes and misdemeanors, as set forth in said articles; and that such proceedings, examinations, trials, and judgments, might be thereupon had, as are agreeable to law and justice. You, the said John Pickering, are therefore hereby summoned to be and appear before the Senate of the United States of America, in their capacity of a Court of Impeachments, at their chamber in the City of Washington, on the second day of March next, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform, such orders and judgments as the Senate of the United States, acting in their said capacity of a Court of Impeachments, shall make in the premises, according to the Constitution and laws of the said United States. Hereof you are not to fail.

Witness, AARON BURR, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this 12th day of January, in the year of our Lord one thousand eight hundred and four, and of the Independence of the United States the twenty-eighth.

Which summons shall be signed by the Secretary of the Senate, and sealed with their seal, and served by James Mathers, Sergeant-at-Arms to the Senate, who shall serve the same pursuant to the directions given in the next following resolution;

2d *Resolved*, That a precept shall be endorsed on said writ of summons, in the form following, viz:

*United States of America. ss.*

The Senate of the United States, in their capacity of a Court of Impeachments, to James Mathers, Sergeant-at-Arms to the Senate, greeting: You are hereby commanded to deliver to and leave with John Pickering, Esq., district judge of the district of New Hampshire, if to be found, a true and attested copy of the within writ of summons, together with a like copy of this precept, showing him both; or in case he cannot with convenience be found, you are to leave true and attested copies of the said summons and precept at his usual place of residence; and in which ever way you perform the service, let it be done at least thirty days before the appearance day mentioned in the said writ of summons. Fail not, and make return of this writ of summons and precept, with your proceedings thereon endorsed, on or before the appearance day therein mentioned in said writ of summons. Witness, AARON BURR, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this 12th day of January, in the year of our Lord 1804, and of the Independence of the United States the twenty-eighth.

Which precept shall be signed by the Secretary of the Senate, and sealed with their seal.

3d. *Resolved*, That the Secretary of the Senate be, and he is hereby, directed to pay the necessary expenses arising upon the process aforesaid, after the same shall be allowed by the President of the Senate for the time being, out of the fund appropriated to defray the contingent expenses of the two Houses of Congress, and the Secretary of the Senate is hereby authorized and directed to advance, out of said fund, to said James Mathers, for his travelling expenses, the sum of two hundred dollars, to be by said James Mathers accounted for in a final settlement for his services.

*Trial of Judge Pickering.*

4th. *Resolved*, That the Secretary of the Senate do acquaint the House of Representatives of the foregoing resolutions, and deliver to them a copy of the same.

Mr. TRACY, from the committee last mentioned, further reported, in part, and the report was amended, as follows:

*Resolved*, That whenever application shall be made to the Secretary of the Senate for a subpoena or subpoenas for witnesses, by the House of Representatives, either by their managers of the impeachment, or in any other proper way, or by the party impeached, or his counsel, acknowledged as such, by the Senate, sitting as a Court of Impeachments, he shall issue to such applicant a subpoena, or subpoenas, in the following form, viz:

To [here name the witnesses and residence] Greeting: You and each of you are hereby commanded, laying aside all excuses, to appear before the Senate of the United States, in their capacity of a Court of Impeachments, on the — day of —, at the Senate Chamber, in the City of Washington, then and there to testify your knowledge in the cause which is before said Court of Impeachments for trial, in which the House of Representatives have impeached John Pickering, judge of the district court for the district of New Hampshire, of high crimes and misdemeanors. Fail not. Witness, AARON BURN, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this — day of —, in the year of our Lord 1804, and of the Independence of the United States the twenty-eighth.

Which shall be signed by the Secretary of the Senate and sealed with their seal.

Which subpoenas shall be directed in every case to the marshal of the districts where such witnesses reside, to serve and return.

*Resolved*, That the Secretary of the Senate do issue twelve subpoenas for witnesses, in the above form, for the use of the said Pickering, with blanks therein for such witnesses as he the said Pickering may think proper to summon, which subpoenas shall be delivered by the Sergeant-at-Arms to him at the time he shall serve the summons aforesaid, on the said Pickering.

On the question to adopt this report, as amended, it was determined in the affirmative—yeas 23, nays 5, as follows:

YEAS—Messrs. Anderson, Armstrong, Baldwin, Bradley, Breckenridge, Brown, Cocke, Condit, Ellery, Franklin, Logan, Maclay, Nicholas, Pickering, Potter, Israel Smith, John Smith, Samuel Smith, Stone, Tracy, Wells, White, and Worthington.

NAYS—Messrs. Adams, Hillhouse, Olcott, Plumer, and Venable.

*Ordered*, That the Secretary lay these resolutions before the House of Representatives.

The Court adjourned to 12 o'clock to-morrow.

FRIDAY, January 13.

*Form of direction to the Marshal for the service of the subpoena.*

[L. S.] The Senate of the United States of America, sitting as a Court of Impeachments: To the Marshal of the district of —

You are hereby commanded to serve and return the within subpoena according to law.

Dated at Washington, this — day of —, in the year of our Lord one thousand eight hundred and four,

and of the Independence of the United States the twenty-eighth.

[From January 13 to February 9 the Court met and adjourned, without transacting any business.]

THURSDAY, February 9.

The following return made by the Sergeant-at-Arms, on the summons issued against John Pickering, was filed; also, his return of the subpoena served upon Michael McClary, to wit:

*United States of America, ss.*

I, James Mathers, Sergeant-at-Arms to the Senate of the United States, in obedience to the within summons, did proceed to the house of the within named John Pickering, on the twenty-fifth day of January, in the year one thousand eight hundred and four, and did then and there leave a true copy of the said writ of summons, together with a true copy of the articles of impeachment annexed, with him the said John Pickering.

JAMES MATHERS.

*United States of America, ss.*

I, James Mathers, Sergeant-at-Arms to the Senate of the United States, did, on the twenty-sixth day of January, in the year one thousand eight hundred and four, proceed to the house of the within named Michael McClary, and served this subpoena by reading the same, and leaving with him a copy thereof.

JAMES MATHERS.

The Court adjourned to 12 o'clock on Monday next.

MONDAY, February 20.

The returns of the Sergeant-at-Arms on the writ against John Pickering was read; also, the return on the subpoena issued in the case of Michael McClary, marshal of the district of New Hampshire.

The Court adjourned to 12 o'clock on Monday next.

[The Court met daily, but no business reported on the Record till]

THURSDAY, March 1.

Mr. TRACY, from the committee appointed to examine precedents, and to prepare the forms necessary in the trial of John Pickering, made a report, which was in part adopted.

The Court adjourned to 12 o'clock to-morrow.

FRIDAY, March 2.

The PRESIDENT administered the oaths prescribed to Messrs. JOHN SMITH of New York, SUMTER, and WRIGHT.

The report of the committee, appointed to examine precedents, and to prepare forms necessary in the trial of John Pickering, impeached of high crimes and misdemeanors was resumed, and sundry amendments agreed to; and the report was adopted, as follows:

*Resolved*, That the President of the Senate shall direct all the forms of proceeding, while the Senate are sitting as a Court of Impeachments, as to opening, adjourning, and all forms during the session, not otherwise specially provided for by the Senate.

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And that the President of the Senate be requested to direct the preparations in the Senate Chamber for the accommodation of the Senate while sitting as a Court, and for the reception and accommodation of the parties to the impeachment, their counsel, witnesses, &c.

And that he be authorized to direct the employment of the marshal, or any officer, or officers, of the District of Columbia, during the session of the Court of Impeachments, whose services he may think requisite, and which can be obtained for the purpose.

And all the expenses arising under this resolution, after being first allowed by the President of the Senate, shall be paid by the Secretary, out of the fund appropriated to defray the contingent expenses of both Houses of Congress.

*Resolved*, That, on the second day of March instant, at one o'clock, the Legislative and Executive business of the Senate be postponed, and that the Court of Impeachments shall then be opened. After which, the process, which, on the twelfth day of January last, was directed to be issued and served on John Pickering, and the return thereon, shall be read. And the Secretary of the Senate shall administer an oath to the returning officer, in the following form, to wit:

"I, James Mathers, do solemnly swear, that the return made and subscribed by me, upon the process issued on the twelfth day of January last, by the Senate of the United States, against John Pickering, is truly made, and that I have performed said services as there described. So help me God."

Which oath shall be entered at large on the records.

The Secretary shall then give notice to the House of Representatives, that the Senate, in their capacity of a Court of Impeachments, are ready to proceed upon the impeachment of John Pickering, in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives.

*Resolved*, That counsel for the parties shall be admitted to appear and be heard upon said impeachment. And upon the attendance of the House of Representatives, their managers, or any person, or persons admitted to appear for the impeachment, the said John Pickering shall be called to appear and answer the articles of impeachment exhibited against him. If he appears, or any person for him, the appearance shall be recorded, stating particularly if by himself, or if by agent or attorney—naming the person appearing, and the capacity in which he appears. If he does not appear, either personally or by agent or attorney, the same shall be recorded. All motions made by the parties or their counsel shall be addressed to the President of the Senate, and, if he shall require it, shall be committed to writing, and read at the Secretary's table; and, after the parties shall be heard upon such motion, the Senate shall retire to the adjoining committee room for consideration, if one-third of the members present shall require it; but all decisions shall be had in open court, by ayes and noes, and without debate, which shall be entered on the records.

Witnesses shall be sworn in the following form, viz: "I, A B, do swear (or affirm, as the case may be,) that the evidence I shall give to this court in the case now depending shall be the truth, the whole truth, and nothing but the truth. So help me God."

Witnesses shall be examined by the party producing them, and then cross examined in the usual form.

If a Senator is called as a witness, he shall be sworn and give his testimony standing in his place.

If a Senator wishes a question to be put to a witness, it shall be reduced to writing, and put by the President.

The summons to John Pickering was read, together with the return made thereon by the Sergeant-at-Arms, and the oath prescribed was administered to the returning officer by the Secretary.

Subpœnas having been issued in the form prescribed, and directed for service to the marshal of the district of New Hampshire, upon Joseph Whipple, John S. Sherburne, Jonathan Steele, Richard Cutts Shannon, Thomas Chadbourne, Edward Hart, and Ebenezer Chadwick, the following return was made to them respectively:

NEW HAMPSHIRE DISTRICT, ss.

January 28, 1804.

Pursuant to this precept, I have served the same by reading it to the within named Ebenezer Chadwick, &c.

MICHAEL M'CLARY,

*Marshal for the New Hampshire district.*

*Ordered*, That the Secretary give notice to the House of Representatives that the Senate, in their capacity of a Court of Impeachments, are ready to proceed upon the impeachment of John Pickering, in the Senate Chamber, which Chamber is prepared with accommodations for the reception of the House of Representatives; and that the Secretary communicate a copy of the regulations agreed on to that House.

Whereupon, the managers on the part of the House of Representatives attended; and the said John Pickering was three times called, to answer the articles of impeachment exhibited against him by the House of Representatives, but came not.

A petition of Jacob S. Pickering, son of John Pickering, and a letter from Robert G. Harper, enclosed to the Vice President, were submitted by him to the court, and read as follows:

*Petition of Jacob S. Pickering.*

At a Court of Impeachments holden before the honorable the Senate of the United States of America, sitting in their capacity of a High Court of Impeachment at the City of Washington, on the second day of March, 1804:

The House of Representatives of the United States, vs. John Pickering, judge of the district court for the district of New Hampshire:

Jacob S. Pickering, of Portsmouth, in the district of New Hampshire, and son of the said John Pickering, against whom articles of impeachment have been exhibited by the House of Representatives of the United States, conceives it his duty most respectfully to state to this high and honorable Court, the real situation of the said John Pickering, the facts and circumstances relative to said articles, wherein he stands charged of supposed high crimes and misdemeanors, and to request that this court would grant him such term of time as they shall think fit and reasonable to substantiate this statement.

Your petitioner will be able to show that, at the time when the crimes wherewith the said John stands charged, are supposed to have been committed, the said John was, and for more than two years before, and ever since has been, and now is, insane, his mind

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wholly deranged, and altogether incapable of transacting any kind of business which requires the exercise of judgment, or the faculties of reason; and, therefore, that the said John Pickering is incapable of corruption of judgment, no subject of impeachment, or amenable to any tribunal for his actions.

That this derangement has been constant and permanent, every day of his life completely demonstrating his insanity; every attempt for his relief, which has been prescribed by the Faculty, who have been consulted on his case, has proved unavailing, and his disorder has baffled all medical aid.

Your petitioner is well aware that the most conclusive evidence of the foregoing fact would result from an actual view of the respondent, which unfortunately, by reason of his great infirmities cannot now be, but at the hazard of his life—he is wholly unable at this inclement season to support the fatigue of so long a journey; yet if the respondent's life be spared, and his health in any degree restored, it will be the endeavor of your petitioner, that the said John shall make his personal appearance before this honorable court at any future day they shall think proper to assign.

Your petitioner will be able to show, any pretence to the contrary notwithstanding, that the decisions made in the cause stated in the first article of impeachment, although not the result of reflection, or grounded on any deductions of reason, were, nevertheless, correct, perfectly consonant to the principles of justice, and conformable to the laws of the land; and the refusal of the said judge to grant the appeal claimed by the said John S. Sherburne, in behalf of the United States, was not against law, or to the injury of the public revenue, as the third article of the impeachment supposes; there being no law to warrant such appeal in such a case.

While, with deep humility, your petitioner admits and greatly laments the indecorous and improper expressions used by the said judge on the seat of justice, as mentioned in the last article of impeachment, he will clearly evince the injustice of that part thereof which respects his moral character, and show abundantly, that from his youth upward, through a long, laborious, and useful life, and until he was visited by the most awful dispensation of Providence, and the most deplorable of all human calamities, the loss of reason, he was unexceptionable in his morals, remarkable for the purity of his language, and the correctness of his habits, and the deviations in these particulars now complained of, are irresistible evidence of the deranged state of his mind.

When this high and honorable Court shall take into their consideration the situation of this respondent, oppressed with infirmity, incapable of making arrangements for his defence, the inclemency of the season, his great distance from the place of trial, and the shortness of notice—when your honors reflect on the high and atrocious crime with which he stands charged; in the decision of which is involved, not his life, (indeed his remains of life would be but a slender sacrifice,) but that which, to an honest mind, is more dear than life itself, his good name—when you advert to the consequences attached to a conviction; the indelible stigma which will befall a numerous family whose only patrimony was the unsullied reputation of their parent, which they have ever cherished, and of which they fondly, perhaps too fondly, hoped, no time, or circumstance, or adverse fortune could deprive them—when your honors shall think of these things, your petitioner has strong confidence that the wisdom and justice of this Court will permit a respondent,

whose integrity until now has been unexpected; who has sustained offices high and honorable, through a long life, and the general tenor of whose character and conduct has hitherto furnished him with a coat of armor against the assaults of his enemies, but who is now incapable of defending himself, to be defended by his friends.

*Audi alteram partem* is a maxim held in reverence wherever liberty yet remains. The Senate of America will be the last tribunal on earth that will cease to respect it; they will never condemn unheard; they will never refuse time for a full and impartial trial.

That time, that impartial trial, your petitioner prays for; the charity of the law presumes the innocence of the respondent; and your petitioner, also, respectfully entreats that, in the meantime, and more especially as the evidence on which the impeachment is founded, was taken *ex parte*, no unfavorable impressions may be made on the minds of this honorable Court, by any report or extra-judicial representations which may have been made on the subject before them.

JACOB S. PICKERING.

*Letter of Robert G. Harper.*

SIR: Mr. Jacob S. Pickering, the son of Judge Pickering of New Hampshire, has forwarded to me, through one of his friends here, the enclosed petition, with a request that I will lay it before the Court of Impeachments, and will appear on his part, if permitted, and support the prayer of it. I am also furnished with several depositions, showing that Judge Pickering, from bodily infirmity, and total derangement of mind, is wholly incapable of appearing before the Court at this time, of making a defence, or of giving authority to any person to appear for him.

The process of subpoena heretofore issued by the Court not being compulsory, and Judge Pickering's narrow circumstances not enabling his son to defray the expenses of the witnesses whose testimony it is important for him to produce, it was judged necessary to serve the subpoena. The object of the petition is to obtain a postponement of the trial, and either compulsory process, or an order to take depositions, which may be received in evidence. Be pleased, sir, to lay the petition before the Court, and to inform me whether I shall be received to appear on the part of the petitioner, Mr. Jacob S. Pickering, in its support. In that case I will attend in the capacity of agent or counsel for the petitioner, and submit to the Court the reasons and proofs with which I am furnished in support of his application.

With the highest respect, I have the honor to be, sir, your most obedient very humble servant,

ROBERT G. HARPER.

The VICE PRESIDENT of the United States.

The PRESIDENT inquired if Mr. HARPER was in Court, and invited him to a seat within the bar, which, having taken, he made the following address:

Mr. President: Before I proceed to address this honorable Court in the case now before it, I think it proper to repeat explicitly what is stated in the letter just now read, that I do not appear as the counsel, agent, or attorney of Judge Pickering, or by virtue of any authority derived from him, he being in a state of absolute and long-continued insanity, can neither appear himself nor authorize another to appear for him. I present myself to this honorable Court, at the request of

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Jacob S. Pickering, son of Judge Pickering, stating his father's insanity, and praying that time may be allowed for collecting and producing complete proof of the melancholy fact. This application for postponement I am prepared to support by depositions now in my possession; and it is also my intention, if permitted, to make a further application on the part of Judge Pickering, for compulsory process to compel the attendance of such witnesses as it may be necessary to produce in proof of the fact of insanity, or for an order to take their depositions in writing on interrogatories, and notice to the prosecutors.

It rests with this honorable Court whether it will receive such an application, and hear counsel so appearing in its support.

After a short pause, Mr. HARPER again rose and inquired, whether his appearance in support of the petition would be construed as the appearance of John Pickering, by counsel?

The PRESIDENT answered, he presumed that it would not be so construed.

Mr. NICHOLAS, in behalf of the managers, objected to the hearing of Mr. HARPER, in any other capacity than as counsel of the accused; and remarked, that, as Mr. HARPER disclaimed appearing in that capacity, he could not, in his opinion, be heard.

Several additional remarks, to the same point, were made by Messrs. G. W. CAMPBELL, EARLY, and J. RANDOLPH.

Mr. RODNEY.—Mr. President; I rise to make a few observations on this case, in addition to those which have fallen from my colleagues who have preceded me; and to submit to the consideration of this Court remarks which have suggested themselves to my mind, on the application made, at the present stage of this business.

I understand the President as having declared that, agreeably to the rules of proceeding adopted by the Senate, no person can be heard in this case but the accused, or his agent or counsel. I believe I have correctly understood what was expressed, (the Vice President nodded assent; ) I also understand the gentleman who appeared on this occasion, as clearly and explicitly stating, that he does not appear as the counsel of Mr. Pickering, nor does he wish it so to be understood. That gentleman has informed us in a very fair and candid manner of the only character in which he does appear, and has assumed very properly and correctly the only ground upon which he wishes to stand. He has in positive terms disavowed the idea of his being the agent or counsel of the accused, because he has protested against Mr. Pickering's being affected by any act done by him. On this single ground then, I respectfully submit whether it would be proper to hear the gentleman under these circumstances, and whether it be not manifested that he does not come within the rules laid down by the Senate for the government of this High Court of Impeachments.

But if the gentleman is to be heard on this subject in the anomalous character in which he appears, with a view of postponing the proceedings of this Court, it will first be necessary for the Court

to decide that the case is properly before them, agreeably to the rules which have been established. If no appearance in person nor by attorney has been entered, unless proceedings have been had which they shall consider tantamount to an appearance, there is no cause regularly in Court, and it would be idle for any person to talk of postponing the consideration of that which really was not before the Court. A question of this kind must, from the nature of it, ever be incidental to the principal or main question. When a writ is in court according to the rules of the court, a motion for postponement may with propriety, if the circumstances justify it, be made. This must always be a subsequent consideration, after the court are in full possession of the case. Agreeably to the correct course of proceeding in ordinary courts, until bail and appearance, there can be no case in court. The party has no day given him, because he is, until this takes place, considered to be out of Court; nor would any counsel, though duly authorized, be heard in his behalf. There has in his case, then, been no appearance in person or by agent or counsel. The accused has made default, and no agent or attorney has been recorded for him. Surely then his default should be first recorded, and if the Court consider that after his having been duly served, and making default, they will proceed to a hearing and determination of the principal question, it will then be proper to listen to those which are necessarily incidental. It will be at this stage of the business competent for the Court, if at all, to hear the gentleman. But I am decidedly of opinion, there is no period in which it will be proper so to do, unless he claims this right as the agent or counsel of the accused. In that capacity he has a right to be heard—and in that capacity alone. Our Constitution has wisely secured to every man this privilege, and I would not deprive the humblest object in the community of this inestimable benefit. I flatter myself, therefore, that this honorable Court will adhere strictly to the rules which they have prescribed for themselves, and that they will for these reasons, and those which have been assigned by my colleague, refuse the present application.

Mr. HARPER inquired, whether it would be regular in him to reply to these remarks?

The PRESIDENT said, it would not; and immediately after put the question to the Senate, whether Mr. HARPER should be heard in support of the prayer of the petition of Jacob S. Pickering.

Whereupon the Senate retired to a private chamber; from which they returned about three o'clock, when the PRESIDENT advised the managers that the Senate would take further time to consider the question before them, and would make them acquainted with their decision.

During the ensuing day and Monday, the Senate were engaged in private debate on granting the prayer of the petition; about four o'clock of the last day their doors were opened, and the sense of the Senate taken on the following question:

On the question, "Will the Court hear evidence-



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and counsel respecting the insanity of John Pickering, upon the suggestion contained in the petition of Jacob S. Pickering, and the letter of R. G. HARPER.

It was decided in the affirmative—yeas 18, nays 12, as follows:

YEAS—Messrs. Adams, Anderson, Baldwin, Bradley, Dayton, Ellery, Franklin, Hillhouse, Logan, Olcott, Pickering, Plumer, Israel Smith, John Smith of Ohio, John Smith of New York, Tracy, Wells, and White.

NAYS—Messrs. Armstrong, Breckenridge, Cocke, Jackson, Nicholas, Potter, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

*Resolved*, That, on the motion made and seconded, the Court shall retire to the adjoining committee room, if one-third of the Senators present shall require it.

The Court adjourned to 12 o'clock the next day.

TUESDAY, March 6.

The Court was opened, and the managers of the impeachment, on the part of the House of Representatives, against John Pickering, attended.

MR. HARPER also attended.

The PRESIDENT informed MR. HARPER, that the Court will hear evidence and counsel, respecting the insanity of John Pickering, upon the suggestion contained in the petition of Jacob S. Pickering, and the letter of R. G. HARPER.

MR. NICHOLSON, in behalf of the managers, said he was instructed to ask for the reading of the proceedings of the Court on the last day of its sitting.

The Clerk having read the record, by which it appeared that John Pickering had been called three times without appearing,

MR. NICHOLSON inquired at what point of time it was intended that MR. HARPER should be heard, and whether this was to be a step preliminary to the trial.

The PRESIDENT said, he could not undertake to give an explanation of the proceedings of the Senate, adding that their meaning must be gathered from the proceedings themselves.

MR. NICHOLSON then said that he begged leave to state that the managers were ready to proceed with the trial of the articles preferred by the House of Representatives.

The PRESIDENT said that, under the decision of the Senate, it had been determined, in the first instance, to hear MR. HARPER in support of the petition of Jacob S. Pickering.

MR. NICHOLSON said, he was instructed by the managers again to state, that they were ready to support the articles of impeachment. They, however, not being at present under the consideration of the Senate, they did not consider themselves under any obligation to discuss a preliminary question raised by a third person, unauthorized by the person charged. He was therefore instructed to state to the Senate, that the managers would, under these circumstances, retire, and take the opinion of the House of Representatives respecting their further procedure.

The managers thereupon retired.

MR. WRIGHT moved that the Senate should withdraw to their private chamber.

Motion lost—ayes 6.

MR. JACKSON submitted to the Senate, whether it would not be proper to delay all further proceedings until they should hear from the managers of the House of Representatives.

Apparently, with this view, MR. ADAMS moved an adjournment.

Lost—ayes 10.

Another motion was made, that the Senate retire to their private chamber.

Lost—ayes 8.

MR. WRIGHT offered a motion, that the counsel in support of the petition of J. S. Pickering be not heard until the return of the managers, or until their intention be signified.

Lost—ayes 7.

MR. HARPER being then called on by the PRESIDENT to proceed within the rule, rose and addressed the Court as follows:

Under the permission of this honorable Court, and as the friend of the family of Judge Pickering, as the friend likewise of this honorable Court, if I may be allowed to claim so high a distinction, I beg leave to state the nature of those facts and proofs, on which the friends of Judge Pickering have thought fit to found the application they have made to this Court. As I despair being able to convey their sentiments in language more impressive, or more in unison with their wishes, than that which they have themselves used, I beg leave to begin with reading the petition of J. S. Pickering. It is in the following words:

[Here MR. HARPER read the foregoing petition.]

These allegations, resumed MR. HARPER, are, I apprehend, sufficient to insure the object sought for, provided they shall be substantiated by sufficient testimony, and such, as in questions of this kind, would be received in a common court of justice. This point this honorable Court will decide, after I shall have adduced the testimony I have to offer.

MR. HARPER then read the following depositions:

*Deposition of Samuel Tenney.*

I, Samuel Tenney, of the county of Rockingham and State of New Hampshire, one of the Representatives of said State in the Congress of the United States, testify and say:

That on the first day of October last, I called on John Pickering Esq., Judge of the district of New Hampshire, at lodgings provided for him by his friends in Greenland, (his family residing in Portsmouth,) for the purpose of ascertaining the real state of his mind by a personal interview, and found him with some laborers in a field at a small distance from the house, between the hours of four and five in the afternoon; that, when I addressed him, he appeared not to know me, asking me if I did not live in Dover: but, on my answering that I lived in Exeter, he recollected me, observing that I was a Representative in Congress; that, on my informing him I had done myself the pleasure to call and see him, he invited and accompanied me into the house, where he conversed with me on several unimportant topics long enough to satisfy me that he was perfectly sober. During which time he called a servant and or-

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dered spirits, water, &c., to be placed on the table by which we were sitting; that the servant took a bottle of rum out of a closet belonging to the room, which closet was secured only by a button; that the said Judge turned out and diluted about a table-spoonfull, part of which he drank, apparently out of attention to me, and set down his tumbler; that his conversation was at first rational and pertinent, but on my mentioning the conflagration in Portsmouth last Winter, by which nearly all the property he possessed was destroyed, he instantly became wild, extravagant, and incoherent, asserting various things concerning the value of the estate he had lost and what he still possessed, which I have abundant reason to believe were not true; and exhibiting demonstrative evidence of a mind *quoad hoc*, altogether deranged; and this, so far as my knowledge extends, is the decided opinion of all who are acquainted with his present state.

I further testify that the said John Pickering has successively filled most of the important offices in the State, the duties of which, so far as a constitution extremely disposing him to nervous and hypochondriac complaints would permit, he ever discharged with honor to himself and to the public approbation, so long as Heaven saw fit to continue to him the exercise of the talents with which it had endowed him; that through this long and useful period of his life, he supported a character so singularly pure, amiable, and estimable, that the late irregularities in his conduct, which his friends confess and deplore, might alone be charitably deemed sufficient to demonstrate his insanity.

I testify, finally, that, from the emaciated and debilitated appearance of the said John Pickering, I have full reason to believe him altogether incapable, at this season of the year, of supporting the fatigues of a journey to this city, to attend his trial.

S. TENNEY.

*Deposition of A. R. Cutter.*

I, Ammi R. Cutter of Portsmouth, in the county of Rockingham and State of New Hampshire, physician, depose and say: That I have been frequently called on as a physician to visit John Pickering, Esq., Judge of the district court of this district, before his appointment to that office, and since; that he has been, during all that time, very subject to nervous and hypochondriac complaints, which, in his own mind, often rendered him incapable of transacting business; that from my first visiting him he has never been free from such complaints, until his mental derangement took place. That, for several years past, Judge Pickering has been subject to great pain and debility of body from a rupture, which at times has confined him to his chamber, and always has such an effect as to prevent his walking as heretofore; that I have been particularly acquainted with Judge Pickering for many years, and have never known him to be in the habit of intemperance, intoxication, or of using profane language, excepting in some instances only, since his derangement of mind took place; that, on the contrary, his morals have always been remarkably correct and exemplary, both while at the bar and on the bench as chief justice of this State, and a district judge.

And I further depose, that such is the situation of Judge Pickering that he cannot, in my opinion, proceed on a journey to the City of Washington, at this time, without imminent hazard of his life.

AMMI R. CUTTER.

PORTSMOUTH, Feb. 11, 1804.

*Deposition of J. Brackett.*

I, Joshua Brackett of Portsmouth, in the district of New Hampshire, physician, depose and say: That about six years past I began the study of physic under Dr. Joshua Brackett, late of said Portsmouth, deceased, family physician and long and intimate acquaintance of John Pickering, Esq., district Judge of this State; that then and there I became acquainted with the Judge; that he was then very hypochondriacal, and subject to nervous complaints, but, as far as my knowledge extended, very exemplary and correct in his morals until within about three years, when he discovered symptoms of mental insanity, and consequent intemperance and profanity in some instances. That I have since visited the Judge as a physician for the last two years, and have found him laboring under mental insanity during said time, and think his mental insanity at this time to be in about the same degree as when I first visited him.

I further depose, that, from the history of Judge Pickering's character from his youth, given by his contemporaries, and particularly by the late Doctor Brackett, it appears that he was very subject to hypochondriacal complaints, but very exemplary and correct in his morals.

J. BRACKETT.

PORTSMOUTH, Feb. 14, 1804.

Mr. HARPER then read the following deposition of William Cutter:

I, William Cutter of Portsmouth, in the county of Rockingham and State of New Hampshire, physician, depose: That I have often and lately been in company with John Pickering, Esq., district Judge of this State, and that he cannot, from his bodily infirmities, proceed on a journey to the City of Washington at this time without, in my opinion, greatly endangering his life.

W. CUTTER.

PORTSMOUTH, Feb. 11, 1804.

The PRESIDENT observed that, as the order of the Senate was confined to the single allegation of insanity, this deposition could not be received.

Mr. HARPER remarked that, under an act of Congress of 1801, provision was made, that in case a Judge in any district court of the United States should be unable to perform the duties of his office, the circuit court for such district might appoint one of its members to perform the duties of such Judge. This case was provided for under the term "inability," without stating the kind of inability. He would therefore read the record of the circuit court on this point.

Mr. H. accordingly read the record, with the subjoined deposition of William Plumer, as follows:

To the honorable Judges of the circuit court of the United States for the first circuit now sitting at Portsmouth within and for the district of New Hampshire, this 25th day of April, Anno Domini 1801:

Humbly sheweth the subscriber, that the district Judge of the district court for said district, through indisposition and mental derangement, is at this time incapable of performing the duties of his office. Whereupon, he suggests to this honorable court the necessity of directing one of the circuit judges of said court to perform the duties of the said district Judge within and for said district, during the period the inability of said district Judge shall continue.

JAMES SHEAFE.

JOHN STEELE, Clerk.

Copy examined by

*Trial of Judge Pickering.***DISTRICT OF NEW HAMPSHIRE, SS.**

At a circuit court of the United States for the first circuit, begun and held at Portsmouth in said district of New Hampshire, on the 23d day of April, 1801.

Present—The honorable John Lowell, Chief Judge; the honorable Benjamin Bourne and the honorable Jeremiah Smith, Esqs., circuit Judges.

It having been represented to this court that the district Judge of this district is unable to perform the duties of his office, and satisfactory evidence of the inability of said district Judge being shown to the circuit court, it is thereupon directed by the court, in pursuance of the powers vested in them by the 25th section of the act of Congress, entitled "An act to provide for the more convenient organization of the courts of the United States, that Jeremiah Smith, Esq., one of the judges of this court, perform the duties of the said district Judge during the period the inability of the said district Judge shall continue.

A true copy of the record.

Attest: JOHN STEELE, *Clerk.*

I, William Plumer, of lawful age, do testify that I was present at said court when the foregoing application was made. That testimony was given to prove the insanity of the said Pickering; that, during the week in which that court was in session, I saw the said Pickering several times in company with said Judges at their lodgings and at other places; and that I heard each of them, to wit, Lowell, Bourne, and Smith, say, that from their own view, as well as from testimony, they were fully satisfied that Judge Pickering was in a state of insanity, and on that ground they had made the order aforesaid. W. PLUMER.

WASHINGTON, March 5, 1804.

Mr. HARPER then commenced the reading of the deposition of Edward St. Loe Livermore. During the reading, particularly of that part wherein the deponent states his opinion that the insanity of Judge Pickering did not arise from his intemperance, but the latter from the former, Mr. H. was interrupted by the President, who desired him to read only that part which related to the allegation of insanity. In compliance with this injunction Mr. H. waived reading a considerable portion of the affidavit. Notwithstanding, however, this circumstance, we give it entire; remarking that only that part of it relative to the allegation of insanity was received as evidence.

*Deposition of Edward St. Loe Livermore.*

I, Edward St. Loe Livermore, depose and say, that in the beginning of November in the year 1802, I was applied to by Eliphalet Ladd, Esq. of Portsmouth, in the State of New Hampshire, to attend a special district court to be holden at Portsmouth on the eleventh of said November, to exhibit a claim for a certain ship called the *Eliza*, and two cables, seized by the officers of the customs and libelled in said court. The statement of the case made to me by the said Ladd, was this: that in the month of September, 1802, the ship *Eliza*, owned by him and of which his son was master, arrived at Boston with a cargo of salt, and nothing else, except some pieces of check linen which were the private adventure of the captain. That the ship was entered at Boston and the duties on the salt secured, and the duty upon the linen paid by the captain, and the vessel authorized to proceed to Portsmouth to discharge her cargo; accordingly she arrived at Portsmouth, where the captain obtained a permit from the collector for landing the

linens and also a permit was given for landing the salt. That while the ship was at some foreign place (I think *Bonavista*) her cables, which were old, became much chafed, and injured, at some bad anchorage ground; and that a vessel of which a certain Captain Lamb was master, being cast away, the seamen from the *Eliza* were employed in saving goods from the wreck, and Capt. Lamb to compensate them gave them a new cable which had been saved. This cable had been purchased by Capt. Lamb intending it for sale in the Southern States, but it was a very ordinary one, made of very bad materials. That Capt. Ladd thinking the situation of his ship to be such as to require a new cable, purchased it of his crew for his ship's use; and it was accordingly bent to his best anchor on the passage home; and that with old and new the ship was but indifferently found. That while the ship was discharging her cargo of salt at Portsmouth, the cables (being in the way) were taken out of the ship, and put into a store upon the wharf; and that the vessel, after discharging, was intended to be hove down for the purpose of graving; that it always had been customary to take out the cables, as well as the ship's sails, upon such occasions, and that the same had now been done in the presence of some of the custom-house officers; and no question had ever been made as to the legality of such doings. From this statement (which was afterwards fully proved on the trial) I was of opinion that the revenue of the United States had not been in danger of suffering material injury and accordingly engaged with Mr. Ladd to undertake his defence. The cables he informed me had been appraised by two merchants and a ropemaker (all as respectable as any in the town of Portsmouth) at two hundred and fifty dollars value; and by an order from the district judge had been delivered to him, but had again been immediately seized by the officers, alleging that the judge was incompetent and the proceedings had been irregular. I informed Colonel Ladd that the trial must be truly farcical as the judge was insane and wholly incapable of transacting business; and as there could be no appeal in the case of the cables, it was but the cast of a die whether he lost them or not. It was at that time considered by me to be an unfortunate circumstance that the cables were valued so low; but the reason, he informed me, was, that the ropemaker, who well understood the value of such articles, said the new cable was made of so bad materials, and the others so old and rotten they were worth very little. But with respect to the ship he could appeal if the insane judge decreed against him—and even if it were possible to conceive that the cables were illegally landed, yet as the value did not amount to four hundred dollars, and the affair of the linens appearing to be merely a mistake at the custom-house, the ship could not be condemned. Accordingly I attended at the time and place; soon after the judge arrived and appeared to me very feeble in body and greatly deranged in mind. By his singular appearance and extravagant incoherent language he drew a large concourse of people into the court-house, and behaved in so wild and disordered a manner, as to afford mirth to the giddy multitude, but the most painful sensations to all those who knew his excellent character and had judgment enough to reflect on the deplorable situation of a man when deprived of his reason. He seemed to have some recollection of the business before him, and ordered the parties to proceed; saying that he had heard enough of the libels (using very profane language) and would decide upon them in a few minutes. But such was the situation of the judge, and

*Trial of Judge Pickering.*

the general confusion, that I suggested to the district attorney the propriety of postponing the business until the ensuing day. Mr. Sherburne acquiesced. I accordingly moved for the postponement, upon which the judge demanded the reason. I informed him I wished for time to prepare my claims—he immediately answered in his former benevolent style “my dear, I will give you to all eternity;” and immediately ordered the court adjourned to nine o’clock the next day, observing that he would “then be sober.” I do not recollect that he said “I am damned drunk now,” and am strongly inclined to believe he did not utter those words, and think I should have recollected them if he had uttered them, as the other expressions made a deep impression on my mind, and very much surprised me, and induced me to believe, as I apprehend it did many others, that the judge was intoxicated. At the hour appointed the next day, he attended, and his appearance was not different from the preceding day, and was equally as irrational. I then concluded it would be best to get through the farcical trial as soon as possible, wholly uncertain of the event; but was informed that the judge, before he reached the court-house, had declared he was determined to condemn both ship and cargo, and had expressed himself with great disapprobation of the claimant, Col. Ladd. The trial of the libel against the cables being the first in order, I immediately proceeded to the examination of the witnesses for the claimant, who testified very circumstantially to the facts in the statement which I have before mentioned. During the testimony of the witnesses the judge appeared attentive, but I do not apprehend he understood much of their testimony. Possibly he might, but he pretty soon declared that both vessel and cargo should be restored to the claimant, and ordered the clerk to enter the decree. Mr. Sherburne then observed to him he had heard only one side, and that he wished to produce his witnesses in behalf of the United States. The Judge replied he might produce forty thousand, but it would not alter the decree. Mr. Sherburne then claimed an appeal to the Circuit Court; upon which the Judge said he might appeal, but he would take care that the decree should not be altered. I objected to an appeal, as the matter in controversy, the cables, did not amount to three hundred dollars in value. The Judge then said there should be no appeal. I intimated to Mr. Sherburne that it must be the court *ad quem* not a *quo* that should determine the right of appeal, and if he was dissatisfied with the determination of the distracted judge, he could apply to the Circuit Court—but he persisted in demanding an appeal, and the Judge refused, telling him that he knew that he had talked the matter over with him in his office five hundred times. This was answered with warmth, by an absolute contradiction by Mr. Sherburne; and the Judge as positively persisted in the assertion, which produced a scene of confusion. I told Mr. Sherburne that he ought not to let the assertion of a distracted man disturb him, to which he assented; and I thought that Mr. Sherburne entertained no doubt of the judge’s distraction. At length the court was adjourned, to the great relief of all the thinking part of the audience.

I do not recollect any demand of an appeal being made in the case of the ship, and am confident that had there been I should have recollected it, as the same objection as to value could not have been made, but I have ever since presumed that the prosecutor was satisfied that there were no linens illegally imported, and that the value of the cables could not amount to four hundred dollars—and even if they were illegally landed, it would

not subject the vessel to condemnation: and this was the cause that no application was ever made to the circuit court upon the subject.

It is impossible for me to repeat all the incoherent jargon uttered by Judge Pickering at this time, and the talk would be very painful should I repeat it. But during the whole of the transaction I entertained but one opinion on the subject, relative to the cause of the judge’s irregularities of this day, which was merely, that it was distraction. I am sensible some gentlemen entertained a different opinion, and among those was the Marshal of the district. But as I well knew that from his situation in life, he had not had the opportunity of knowing the judge as well as myself, I endeavored to convince him his distraction was not occasioned by too free a use of liquor of any kind; and I am fully of the opinion that he was not intoxicated with any kind of spirituous liquor on this day.

It is now more than twenty years since I have had a most intimate acquaintance with Judge Pickering; our avocations being the same, of course led to it, and always until his distraction he has sustained a most excellent moral character, and I never knew a man more perfectly free from the imputation of any vice or immorality than Judge Pickering. But he was not merely negatively good; his active virtues were always considered of the most amiable kind. He was very chaste in his conversation, and in no instance, that I can recollect, did he use profane, obscene, or indelicate language; and a person of much discernment, formerly acquainted with him, and hearing his conversation at this time, I think would be convinced of his distraction, were there no other proof. I am sensible that it has been reported that Judge Pickering injured himself by the too free use of inebriating liquors; and it has been the opinion of some not so well acquainted with him, this was the principal cause of his distraction. I think it was very erroneous and the supposition uncharitable. It is possible at times he may have drank too freely, but I think I have good reason to conclude it was the consequence of his insanity, as it is easy to imagine that a man in this situation would be intemperate. For many years I have known him to have been grievously afflicted with nervous disorders, to which all studious and sedentary men are in some degree liable; but frequently I have seen him so extremely affected, that to appearance his distress and sufferings have been as great as the human frame could endure—and I can distinctly recollect instances from June seventeen hundred and ninety to eighteen hundred, the time in which his distraction became very apparent, that his disorder has rendered him unfit for public business; and, being Chief Justice of the Supreme Court several years, much disappointment and confusion was occasioned by his frequent illness, and his situation was the subject of much conversation. This disorder showed itself in different ways, sometimes in acute pains, at others in hypochondriac affections; he grew excessively fearful of crossing ferries, and frequently was very wild in his imagination; and such were his conceits (as they were called by some) and fearful apprehensions of—he could not tell what—that some of his most intimate friends pronounced him to be approaching to a state of insanity, or total incapacity for business; but in all this time, there was not the least suggestion or surmise that a fondness for drink was the cause, although, perhaps no man in New Hampshire was at the time more conversed about. One instance in particular I will mention, of the busi-

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ness of the court being thrown into confusion on account of his illness. In the fall of the year seventeen hundred and ninety-four, it was necessary that he should go the circuit; as there were but three judges of the Superior Court at that time, and the whole were necessary to constitute a quorum. The judge was so ill, that he declared it was impossible for him to reach Amherst, which is little short of sixty miles from Portsmouth, his place of residence. With much difficulty and great entreaties, he was prevailed upon to make the attempt, but consented, provided I would ride with him in a chaise, and carry him a roundabout way in order to avoid a ferry, and pass the river Merrimack, upon a bridge newly erected, and (as he said) take care of him. We travelled part of the way the first day, but his distress and sufferings were so great that I am confident he slept none through the night, as he wholly prevented my sleeping. The next morning he expressed his determination of returning, but with much persuasion I induced him to proceed to Amherst, where the first court was to be holden; and the day following he came into the court, and sat while a cause was partly tried: but finding he could sit no longer, the court was adjourned, and he went to his lodgings, where he was confined by sickness about a fortnight; he then returned to Portsmouth, and thus ended the Fall circuit of 1794. Many unfeeling people at this time, affected to say, that his disorder was feigned or imaginary—in the same manner that some do now, that his distraction is the effect of drink.

In the beginning of the year 1800, I heard it intimated that Judge Pickering was deranged in his mind—that his extravagant actions and conversation could be accounted for upon no other principle. But the first proof I recollect to have received, was in the summer of that year, when he called at my house before sun-rise one morning, and insisted on seeing me, having business of great importance: when I came to him to know the cause of so early a visit, he informed me that he was immediately going to set out for Philadelphia in a coach and six, to see the President, and should be back in five days. I instantly perceived his situation, and my conversation with him was in conformity. I told him there were many obstacles in his way, such as bad ferries. He answered, he had got above all those considerations since his voyage to England. I inquired of him when he had been in England; well knowing that a ferry was the utmost extent of his navigation. He said he had been in England, France, and Germany, and various other countries across the Atlantic; and then mentioned his having been a captain of horse in the British army—told me the particular uniform he used to wear—that he was sent at a particular time by Government as ambassador to make peace with the Indians, interlarding his stories with oaths, and the most incoherent language imaginable, that left not a doubt upon my mind of his distraction. I mentioned this affair to gentlemen, and found he had told the same stories before. I saw no more of him for some time, as he was removed into the country by his friends on account of his insanity; and I thought it was perfectly understood by all persons who knew him that he was distracted; and many anecdotes respecting him have been related as proofs of his derangement; and one in particular has been deemed an unequivocal proof, that is, his undertaking to dismiss Jonathan Steele, Esq., from his office of clerk of the district court, and of appointing R. Cutts Shannon, Esq., as Mr. Steele had given universal satisfaction in the office, and there was

no cause for his removal. Mr. Steele, upon the application of Mr. Shannon, refused to give up the records; and the relatives of the judge have so managed the business that Mr. Steele has continued in the office ever since. I thought that both Mr. Steele and Mr. Shannon were convinced of his distraction, and have several times conversed with them upon the subject.

The Judge continued to grow worse, and, after the passing of the late judiciary act—now repealed—Judge Smith was appointed to do the duties of the office, and New Hampshire was relieved from the embarrassment until the repeal of the act, since which time several distressing scenes have passed, in consequence of the duties again devolving upon the unfortunate Judge.

E. ST. LOE LIVERMORE.

Portsmouth, N. H., Feb. 15, 1804.

Then Edward St. Loe Livermore, Esq., made oath that the foregoing affidavit by him subscribed, was just and true, according to the best of his knowledge.

Attest: GEO. SULLIVAN, J. P.

Mr. HARPER said this was the testimony on which he founded the application, which was to postpone the trial until such time as the Court may think fit, in order to take depositions.

The PRESIDENT.—It does not seem to me proper to receive any motion from you. The Senate will attend to what you have said, and take proper order upon it.

Mr. HARPER said he was but little solicitous about form; he regarded substance. His only wish was that an opportunity should be allowed, and the necessary facilities afforded to obtain testimony. This being his object, it was not his wish to occupy the time of the Court unnecessarily. The testimony he had just submitted was of itself amply sufficient, upon which to rest, with this honorable Court, the prayer of the petitioner, and to ground the application he had intended to make. It was such as carried conviction with it, and required no observations of his to apply or elucidate it. Most of the gentlemen whose affidavits he had read, and their respectability of character, must be well known to members of the Court; and he humbly presumed that, after evidence so direct and conclusive, scarcely a doubt could possibly remain upon the mind of any gentleman as to the insanity of this most unfortunate man, as well at present, as at the time when the offences charged against him in the articles of impeachment were committed. And surely, Mr. President, said Mr. H., it cannot be necessary to produce authorities to prove to this Court that the mildness and humanity of our laws exempt the insane from prosecution and punishment. Surely it cannot be necessary to show to this Court that the man whom God has been pleased to bereave of the greatest of all earthly blessings, his reason, and who, without mind, is incapable of committing any crime, and not amenable to human laws for his conduct. Surely, sir, it cannot be necessary to show to this Court that to constitute any crime a vicious will is necessary, and that a man insane cannot be put upon his trial—cannot in a criminal prosecution be called upon to plead, either by himself or counsel, guilty or not guilty—being at the time without any rational will, and not knowing

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the meaning of such a plea; or of showing that such a person is utterly incapable even of receiving any legal notice to attend upon judicial proceedings. The principles, Mr. H. observed, were too well settled, and too well known to every member of this honorable Court to render such a proceeding on his part necessary. To their justice and to their wisdom he would, therefore, confidently appeal, and beg leave to submit the prayer of the petitioner in behalf of his most unfortunate parent.

The Court then adjourned until the next day.

A short time after the managers returned from the Court, Mr. NICHOLSON, in their behalf, made to the House of Representatives the following communication:

"That on Friday, the second of March, the managers, agreeably to the directions of the House, appeared at the bar of the Senate, to support the said articles of impeachment, when John Pickering was three times solemnly called, but did not answer, or appear, either in person, or by counsel. The President of the Senate then stated, that he had received a letter, signed R. G. Harper, accompanying a petition, signed Jacob S. Pickering, who called himself the son of the party charged. The petition being read, it was found to contain a statement of a variety of matter, particularly the insanity of Judge Pickering, upon which the prayer of the petition was founded for a postponement of the trial to some future day. Mr. Harper was called to the bar of the Senate; he entered, and stated, that he wished it to be distinctly understood, that he did not appear at the bar of the Senate as counsel for John Pickering, from whom he had received no authority for that purpose: but that his object was to support the facts contained in the petition of Jacob S. Pickering, and the prayer thereof. There was a short pause,—when Mr. Harper rose again, and inquired, whether his appearance in support of the petition would be construed as the appearance of John Pickering, by counsel. The President of the Senate answered, he presumed, that Mr. Harper's appearance would not be considered as the appearance of John Pickering by counsel.

"The managers, under these circumstances, felt themselves bound to object to Mr. Harper's being heard in any other capacity than as counsel for the party who was impeached; and briefly stated their reasons for the objection.

"The Senate withdrew to a private chamber, where it is presumed the question was debated. The managers again appeared at the bar of the Senate this day, and were informed by the President, that it had been resolved to hear Mr. Harper in support of the allegations contained in the petition of Jacob S. Pickering, and the prayer thereof. The managers inquired at what point of time it was intended that Mr. Harper should be heard, and whether this was to be a measure preliminary to the trial: The President of the Senate declared, that he could not undertake to explain the resolutions of the Senate; but that their sense must be collected from the resolutions themselves. The managers then offered themselves ready for trial, declaring that they were prepared to open the prosecution on behalf of the House of Representatives, and that the witnesses were ready to prove the facts charged in the articles of impeachment. Upon this offer being made,

the President of the Senate stated that he considered it to be the sense of the Senate, that Mr. Harper was to be heard before the trial commenced.

"The managers considered this as an irregular step, and not believing that they ought to discuss any petition presented to the Senate from a person who was not a party to the impeachment, and this, too, before the party charged, although duly notified, had appeared, either in person, or by attorney, withdrew from the Senate Chamber. They will not feel themselves either bound or authorized to appear again, until the Senate shall inform them that they are prepared to proceed in the trial, unless specially directed by this House."

Mr. SMILIE, as soon as the above report was read, moved the following resolution:

*Resolved*, That this House doth approve of the conduct of the managers appointed to support the articles of impeachment in the case of John Pickering, as stated in their report of this day, and that the said managers do not appear at the bar of the Senate, until they shall be specially instructed by this House.

Mr. ELLIOT moved to strike out the words "as stated in their report of this day."

Mr. ELMER remarked that the managers appeared to think the proceedings of the Senate incorrect. This might be the case; but from the information before him he was not prepared to say so. He was of opinion that the Senate were the sole judges of the mode of conducting trials before them.

Mr. SMILIE.—The Senate undoubtedly have the right of fixing their mode of procedure; but if that mode shall be such as to interfere with our rights, we have a right to insist upon them. Such a procedure, as has been adopted by the Senate, in the present instance, I have never heard of. But if the managers are satisfied with what has been already done, without any further act on the part of the House, I am also. It is my wish that they would inform us of what they desire.

Mr. DANA.—It is very proper for the managers of an impeachment to apply to the House on the occurrence of a new case; but it is not necessary for the House to express an opinion of their conduct in every stage of the trial. It may be proper to give them instructions when they desire it; but it is not necessary to pass a vote of approbation or disapprobation on their conduct. In this case it is entirely useless, and may be injurious. I therefore move the previous question.

Mr. NICHOLSON.—The managers entertain no other desire but that of being guided in the discharge of the duty devolved upon them by the directions of the House. They would deem it a matter of extreme regret were the House to disapprove their conduct on the present occasion. But no individual among them—I speak for myself, and believe I may likewise speak for all those associated with me—wishes a vote of approbation by this House. I would, therefore, be pleased, if the gentleman would agree to strike out that part of the resolution which expresses such approbation. If the mover does not agree to this modification, I shall take the liberty of moving it.

Mr. SMILIE.—I cannot agree to strike out this part of the resolution, as it is, in my opinion, the

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most important feature in it. The conduct of the Senate has met with the disapprobation of the managers, and they have withdrawn, right or wrong. It is proper for the House to express an opinion, whether it is correct or incorrect.

Mr. NICHOLSON observed that on further reflection he did not consider himself at liberty to make any motion, or to vote on any made on the subject before the House.

Mr. G. W. CAMPBELL was of opinion that it would only be necessary for the House to express an opinion in case they disapproved the conduct of the managers.

Mr. HUGER declared himself of the same opinion.

Mr. J. LEWIS moved a postponement of the further consideration of the motion until to-morrow.

Mr. SMILIE had no objection to the postponement.

All further procedure was arrested by the agreement to a motion of Mr. NICHOLSON to adjourn.

On the ensuing day, Mr. SMILIE said, as the resolution appeared to be disagreeable to some gentlemen, he would withdraw it. It was accordingly withdrawn.

### WEDNESDAY, March 7.

On motion that the Secretary inform the House of Representatives that the Court of Impeachment is open and now ready to receive and hear the managers in support of the articles of impeachment exhibited by them against John Pickering, judge of the district of New Hampshire, it passed in the affirmative—yeas 19, nays 8, as follows:

YEAS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of New York, John Smith of Ohio, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

NAYS—Messrs. Adams, Bradley, Ellery, Hillhouse, Olcott, Pickering, Plumer, and Tracy.

The Court adjourned to 12 o'clock to-morrow.

### THURSDAY, March 8.

About 12 o'clock the Court was opened, and the managers appeared before the Senate, when

Mr. EARLY, in their behalf, addressed the Court as follows:

Mr. PRESIDENT: The Representatives of the United States appear before this high Court, as suitors for remedial justice against John Pickering, district judge for the district of New Hampshire.

Among the various duties assigned to Congress by the Constitution, there is no description of superior importance; none, the discharge of which is equally painful with that now before them. The grand inquest of the nation have accused before this tribunal an officer whose functions are the most delicate—whose trust is the most sacred. They have charged him with acts highly derogatory to his character as a man; with transgressions disgraceful to him as a judge; with crimes ruinous to the interest and reputation of his Gov-

ernment: and the time has arrived, sir, when they are called upon to make good these charges.

The wisdom manifested in the organization of that admirable Constitution which forms the glory of this country, is in nothing more eminently conspicuous than in the mode of trial prescribed for high State offenders. While on the one hand it guards against the influence and intrigue of power and of patronage, it raises, on the other, a shield sufficiently formidable to resist the weight of the Representatives of the Union. To this grand depository of national justice are safely committed the dearest rights and interests of public officers, and the most sacred claims of the Government.

It is certainly true that the trial by impeachment has not unfrequently in another country, been made the engine of oppression. But it is equally true that there the influence of a Crown, armed with all the weapons of prerogative, has proved the most usual source of invasion upon individual rights. Not so with us. This judicature owes nothing to Executive patronage. The source of their appointment and responsibility is found elsewhere. It is situated where there is least danger of its operating upon their hopes or their fears in the discharge of their judicial functions.

But, sir, there is another guard pre-eminently distinguishing the wisdom of the American Government, and the sacred care with which its framers endeavored to fortify the rights of the accused. It is the peculiar privilege of the officers of this Government, that nothing short of the voice of two-thirds of their judges can produce their conviction.

The House of Representatives have not, Mr. President, resorted to the said expedient of impeaching, and demanding the trial of the defendant, without the most mature deliberation. They have not done it, sir, without a thorough conviction that the interests of their country and the solemn duty of their stations, imperiously required it at their hands: and they now proceed to make good their charges, under the fullest confidence that the decision will be governed by the immutable principles of justice, and redound to the honor of our common country.

Believing that the best course which can be pursued in this case, and that which will be most likely to simplify it, will be to take the articles offered by the House of Representatives, in succession, I will, in support of the allegations contained in each article adduce the proof, necessary to substantiate them.

The first article is in the following words:

"ARTICLE 1. That Whereas George Wentworth, Surveyor of the District of New Hampshire, did in the port of Portsmouth, in the said district, on waters that are navigable from the sea by vessels of more than ten tons burden, on the fifteenth day of October, in the year one thousand eight hundred and two, seize the ship called the Eliza, about two hundred and eighty-five tons burden, whereof William Ladd was late master, together with her furniture, tackle, and apparel, alleging that there had been unladen from on board of



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said ship, contrary to law, sundry goods, wares, and merchandise, of foreign growth and manufacture, of the value of four hundred dollars and upwards, and did likewise seize on land within the said district, on the 7th day of October, in the year 1802, two cables of the value of two hundred and fifty dollars; part of the said goods which were alleged to have been unladen from on board the said ship as aforesaid contrary to law; and whereas Thomas Chadbourn, a deputy marshal of the said district of New Hampshire, did, on the 16th day of October, in the year 1802, by virtue of an order of the said John Pickering, judge of the district court of the said district of New Hampshire, arrest and detain in custody for trial before the said John Pickering, judge of the said district court, the said ship, called the *Eliza*, with her furniture, tackle, and apparel, and also the two cables aforesaid:

"And whereas by an act of Congress, passed on the second day of March, in the year one thousand seven hundred and eighty-nine, it is among other things provided that 'upon the prayer of any claimant to the court that any ship or vessel, goods, wares, or merchandise, so seized and prosecuted, or any part thereof, should be delivered to such claimant, it shall be lawful for the court to appoint three proper persons to appraise such ship or vessel, goods, wares, or merchandise, who shall be sworn in open court, for the faithful discharge of their duty; and such appraisement shall be made at the expense of the party on whose prayer it is granted; and on the return of such appraisement, if the claimant shall, with one or more sureties to be approved of by the court, execute a bond in the usual form to the United States, for the payment of a sum equal to the sum of which the ship or vessel, goods, wares, or merchandise, so prayed to be delivered and appraised, and moreover produce a certificate from the collector of the district wherein such trial is had, and of the naval officer thereof, if any there be, that the duties on the goods, wares, and merchandise, or tonnage duty on the ship or vessel, so claimed, have been paid or secured in like manner, as if the goods, wares, or merchandise, ship or vessel, had been legally entered, the court shall, by rule, order such ship or vessel, goods, wares, or merchandise, to be delivered to the said claimant;' yet the said John Pickering, judge of the said district court of the said district of New Hampshire, the said act of Congress not regarding, but with intent to evade the same, did order the said ship called the *Eliza*, with her furniture, tackle, and apparel, and the said two cables, to be delivered to a certain Eliphalet Ladd, who claimed the same, without his, the said Eliphalet Ladd, producing any certificate from the collector and naval officer of the said district that the tonnage duty on the said ship, or the duties on the said cables, had been paid or secured, contrary to his trust and duty as judge of the said district court, against the law of the United States, and to the manifest injury of their revenue."

I will first read that part of the act of Congress that requires the certificate stated as necessary in the article which I have just read, and then adduce testimony to substantiate the facts set forth in it.

[Mr. EARLY here read from the acts of Congress the provisions above recited.]

It will be observed, said Mr. E., that not only a bond, with one or more sureties, is required to be executed for the payment of the sum at which the vessels and goods shall be appraised, but that

previous to the delivery of the vessel or goods a certificate must be produced from the proper officers that the duties on the goods and the tonnage duty have been secured. We have an explanation of the record in the case of the ship *Eliza*.

Mr. E. here read that part of the record bearing on the allegations set forth in the first article. To avoid the repetition of the several parts of the records, we subjoin the whole.

## NEW HAMPSHIRE DISTRICT, ss.

At a special district court of the United States, begun and held at Portsmouth, within and for said district, on the eleventh day of November, Anno Domini one thousand eight hundred and two, by the Hon. John Pickering, judge of said court.

The United States of America, by John Whipple, collector of the said district, libel, propound and give the judge of said court to understand and be informed, that on the 15th day of October, 1802, George Wentworth, surveyor of said district of Portsmouth, did, in the port of Portsmouth, in said district, on waters that are navigable from the sea by vessels of more than ten tons burden, seize the ship called the *Eliza*, of about two hundred and eighty-five tons burden, whereof William Ladd was late master, together with all her tackle, apparel, and furniture, for the following causes, namely, that sundry goods and merchandise, viz: two cables, and one hundred pieces of checked linen, of the value of four hundred dollars and upwards, were unladen and delivered from said ship *Eliza*, in the district aforesaid, between the twentieth day of September last, and the thirtieth day of the same September, without a permit from the collector and naval officer, or any other person authorized to give the same. And the said Joseph Whipple doth aver, that the said two cables and said linen are of foreign growth and manufacture, and subject by law to the payment of duties on importation into the United States; and that said cables and linen were brought into said district of Portsmouth in said ship *Eliza* from some foreign port or place, and that the duties to which said cables and linen were subject on importation, have not been paid or secured to be paid, and that said cables and linen were unladen, delivered, and landed from said ship *Eliza* in said district without a permit therefor from the collector and naval officer, and contrary to law; and the said Joseph Whipple doth further aver, that said cables and linen at the time of discharging, unloading, and delivering thereof as aforesaid, were, and ever since have been, and now are, of the value of four hundred dollars and upwards, and that said cables were seized on land in said district of Portsmouth, and are duly libelled in this honorable court. Wherefore, the said Joseph Whipple, collector as aforesaid, in the name and behalf of the United States of America, prays the advisement of this court in the premises, and that said ship *Eliza*, together with her tackle, apparel, and furniture, may be adjudged to be and remain forfeited and disposed of according to law. Due notice having been given of the seizure aforesaid, and of this trial thereon, Eliphalet Ladd, by Edward St. Loe Livermore, Esq., his proctor and attorney, now comes into court and claims the said ship, her tackle, apparel, and furniture, and shows to this honorable court that he is owner of said ship and appurtenances, and that at the time mentioned in said libel, or at any other time, there was not unladen from on board said ship any goods, wares, and merchandise, of the value of four hundred dollars, or of any other value, contrary to law, and that said ship, her tackle, apparel, and furni-

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ture, are not by law forfeited in manner and form as by said libellant is set forth in said libel; and he thereupon prays the advisement of this honorable court, and that the same may be decreed to be restored to him. And on hearing the said parties, it is ordered and decreed by the court, that the said ship *Eliza*, her tackle, apparel, and furniture, be restored to the said Eliphalet Ladd the claimant, from which decree an appeal to the next circuit court for said district is claimed and refused by the court.

A true copy of record with the seal of said court annexed.

Attest: J. STEELE, *Clerk.*

NEW HAMPSHIRE DISTRICT, ss.

At a special district court of the United States, begun and held at Portsmouth, within and for said district, on the eleventh day of November, Anno Domini one thousand eight hundred and two, by the Hon. John Pickering, judge of said court:

The United States of America, by Joseph Whipple, collector of said district, libel, propound and give the judge of said court to understand and be informed, that George Wentworth, surveyor of said district of Portsmouth, did, on the seventh day of October, one thousand eight hundred and two, on land, within said district, seize and secure sundry goods and merchandise, viz: two cables, which were imported into said United States contrary to law. And the said Joseph Whipple, collector as aforesaid, further propounds, shows, and informs, that the said cables are of foreign growth and manufacture, and subject by law to the payment of duties on importation into the United States, and that said duties have not been paid nor secured to be paid; and that said cables were brought into said district in a certain ship called the *Eliza*, whereof William Ladd was then master, and unladen and delivered thereupon between the twentieth day of September last and the thirtieth day of the same September, within said district, without a permit from the collector and naval officer for such unloading and delivery. Wherefore the said Joseph Whipple prays the advisement of this court in the premises in the behalf of the United States and of all persons interested in said seizure, and that said cables may be decreed to be and remain forfeited and be disposed of according to law. Due notice having been given of the seizure aforesaid and of this trial, Eliphalet Ladd, by Edward St. Loe Livermore, Esq., his attorney and proctor, now comes into court and claims the said cables as part of the tackle and appurtenances of a certain ship called the *Eliza*, whereof he is the owner, and says that said cables, at the time of said seizure, as mentioned in said libel, were appurtenant, and belonging to said ship as her cables; and that before that time, according to usage and custom, and for the necessary repairs of said ship, and for the purpose of again fitting her for sea, had been taken out said ship, and for no other purpose whatever; and that said cables were not illegally imported into the United States, neither were the same at any time subject to the payment of duties, agreeably to the true intent and meaning of the laws of the United States, and that the same are not by law forfeited as said libellant has set forth; he thereupon prays that said cables may be decreed to be restored to him. On hearing the said parties, it is ordered and decreed by the court that the cables aforesaid be restored to the said Eliphalet Ladd, the claimant; from which decree an appeal to the next circuit court for said district is claimed and refused by the court.

A true copy of record with the seal of said court annexed.

Attest: J. STEELE, *Clerk.*

Joseph Whipple, Collector of Portsmouth, was then sworn:

He testified that no duties had been secured on the two cables seized; that on intimation being made that they were landed, they were seized, and as they exceeded four hundred dollars in value, the ship *Eliza* was also seized. He had understood that one of the cables was taken from the wreck of a vessel cast away, and that it had been bent for the purpose of evading the duty. On inquiry the cost of the two cables was found to be \$520. One cable appeared not to have been used. On being asked the value of that cable, he said he could not recollect what it was.

[Mr. EARLY here read the record of the court in the case of the libel against the cables, as above.]

Mr. EARLY.—Having thus made good the facts and allegations contained in the first article, I will proceed to the second, which represents:

“ART. 2. That whereas, at a special district court of the United States, begun and held at Portsmouth, on the 11th day of November, in the year 1802, by John Pickering, judge of said court, the United States, by Joseph Whipple, the collector of said district, having libelled, propounded and given the said Judge to understand and be informed, that the said ship *Eliza*, with her furniture, tackle, and apparel, had been seized as aforesaid, because there had been unladen therefrom, contrary to law, two cables and one hundred pieces of check, of the value of four hundred dollars, and having prayed in their said libel that the said ship, with her furniture, tackle, and apparel, might by the said court be adjudged to be forfeited to the United States, and be disposed of according to law; and a certain Eliphalet Ladd, by his proctor and attorney, having come into the said court, and having claimed the said ship *Eliza*, with her tackle, furniture, and apparel, and having denied that the said two cables and the said one hundred pieces of check had been unladen from the said ship contrary to law, and having prayed the said court that the said ship, with her furniture, tackle, and apparel, might be restored to him, the said Eliphalet Ladd, the said John Pickering, judge of the said district court, did proceed to the hearing and trial of the said cause thus pending between the United States on the one part, claiming the said ship *Eliza*, with her furniture, tackle, and apparel, as forfeited by law, and the said Eliphalet Ladd on the other part, claiming the said ship *Eliza*, with her furniture, tackle, and apparel, in his own proper right; and whereas John S. Sherburne, attorney for the United States, in and for the said district of New Hampshire, did appear in the said district, as his special duty it was by law, to prosecute the said cause in behalf of the United States, and did produce sundry witnesses to prove the facts charged by the United States in the libel filed by the collector as aforesaid in the said court, and to show that the said ship *Eliza*, with her tackle, furniture, and apparel, was justly forfeited to the United States, and did pray the said court that the said witnesses might be sworn in behalf of the United States, yet the said John Pickering, being then judge of the said district court, and then in court sitting, with intent to defeat the just claims of the United States did refuse to hear the testimony of the said witnesses so as aforesaid, produced in

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behalf of the United States, and without hearing the said testimony so adduced in behalf of the United States in the trial of the said cause, did order and decree the said ship *Eliza*, with her furniture, tackle, and apparel, to be restored to the said Eliphalet Ladd, the claimant, contrary to his trust and duty as judge of the said district court, in violation of the laws of the United States, and to the manifest injury of the revenue."

Mr. EARLY.—The record of the court applicable to this article, is as follows. [Mr. E. here quoted the record.] This record states that the ship *Eliza* was ordered to be restored by Judge Pickering, and an appeal refused.

*Jonathan Steele, Clerk of the Court, sworn:*

The deponent said he was present at the trial, and that witnesses were offered on the part of the Government to make good the charges stated in the libel. The court decided that they should not be examined; afterwards allowed their examination, and then refused to hear a word, and directed an adjournment; after ordering a restoration of the vessel to the claimants, and refusing an appeal. All the proceedings were had on the second day, when several witnesses, though he believed not all on the part of the United States, were sworn. No distinct reason was assigned for refusing to examine the witnesses. He believes the counsel for the claimant did assign some reasons, but he does not recollect them. The attorney of the district attempted to reply, but was stopped. The Judge said he had decreed the restoration of the ship and cables, and would not hear him.

*John S. Sherburne, District Attorney, was sworn.*

He stated that, in support of the libel, he exhibited the manifest received from the Collector of Boston, where the ship landed a part of her cargo. He offered this as evidence that the cables were a part of the cargo, they being so stated in the manifest to the Collector of Boston. He offered some witnesses to show, that by the captain's own declaration, they had been considered as merchandise. The Judge immediately interrupted him, and said he had decreed the restoration of the ship and cables. The deponent is not certain whether the counsel for the claimant did or did not object to his making the observations he was about to do to the court. The business was pressed; the Judge then said the deponent might examine the witnesses. On proceeding to examine them, the Judge interrupted the deponent, and adjourned the court. The deponent does not recollect that the Judge assigned any reasons for refusing to hear testimony. He declared, on opening the business, that he would spend very little time in attending to it—adding that he could finish the business in four minutes. He decreed the restoration without hearing any witnesses whose testimony was material. Some testimony was adduced as to the value of the cables. The deponent expected that his witnesses would prove that one of the cables was purchased by the captain of the *Eliza* for sale and not for use; and that the captain had said, on approaching land, that the cable should not be bent but to deceive the officers of the customs.

PRESIDENT.—Did you state to the court that testimony?

Mr. Sherburne.—I did not.

Mr. EARLY.—Are there any witnesses present that you intend to bring forward on the trial?

Mr. Sherburne.—I believe not. They were the crew of the vessel.

Mr. EARLY.—I will now proceed to make good the facts and allegations contained in the third article, which is as follows:

"ART. III. That whereas it is provided by an act of Congress, passed on the 24th day of September, in the year 1789, "that from all final decrees of the district court in cases of admiralty and maritime jurisdiction, where the matter in dispute exceeds the sum or value of three hundred dollars exclusive of costs, an appeal shall be allowed to the next circuit court to be held in such district;" and whereas on the 12th day of November in the year 1802, at the trial of the aforesaid cause between the United States on the one part, claiming the said ship *Eliza*, with her furniture, tackle, and apparel, as forfeited for the cause aforesaid, and the said Eliphalet Ladd, on the other part, claiming the said ship *Eliza* with her furniture, tackle and apparel, in his own proper right, the said John Pickering, judge of the said district of New Hampshire, did decree that the said ship *Eliza* with her tackle, furniture and apparel, should be restored to the said Eliphalet Ladd the claimant; and whereas the said John S. Sherburne, attorney for the United States in and for the said district of New Hampshire, and prosecuting the said cause for and on the part of the United States, on the said 12th day of November in the year 1802, did, in the name and behalf of the United States, claim an appeal from said decree of the district court, to the next circuit court to be held in the said district of New Hampshire, and did pray the said district court to allow the said appeal, in conformity to the provisions of the act of Congress last aforesaid, yet the said John Pickering, judge of the said district court, disregarding the authority of the laws, and wickedly meaning and intending to injure the revenues of the United States and thereby to impair their public credit, did absolutely and positively refuse to allow the said appeal, as prayed for and claimed by the said John S. Sherburne, in behalf of the United States, contrary to his trust and duty of judge of the district court, against the laws of the United States, to the great injury of the public revenue, and in violation of the solemn oath which he had taken to administer equal and impartial justice."

Mr. EARLY here read the act of Congress referred to.

Mr. EARLY.—The following record establishes beyond doubt the truth of the fact contained in this article.

[Mr. E. here read that part of the record relating to the allegations in the third article.]

Mr. EARLY.—In addition to this testimony, I will call on Mr. Sherburne again to relate the circumstances attending the refusal to allow the appeal.

Mr. Sherburne was again examined:

On the Judge declaring that he decreed a restoration of the vessel and cables, the deponent, after several efforts to obtain a hearing of the witnesses, required the allowance of an appeal, one in relation to the cables, and the other in relation to the ship. The Judge at first assented to the appeal,

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and, after using some profane language, observed that the decree should not be altered. The counsel for the claimant remarked that the cables were not valued at a sum that entitled the libellant to appeal from the decision of the district court. The deponent understood the appraisement of the ships and cables to have been made at the house of the Judge, and that the cables had been there valued at less than three hundred dollars. The deponent said he considered the whole of that proceeding a nullity, as the Judge had not a right to restore the vessel until the duties were secured or paid.

Mr. EARLY.—The testimony now required, relates to the refusal of an appeal in regard to the vessel.

Mr. Sherburne.—The whole was a scene of confusion. The deponent does not recollect any distinct observations made in relation to the ship. He claimed an appeal on both decrees; whereupon the counsel of the claimant observed that the valuation of the cables did not entitle the libellant to an appeal. The Judge did refuse an appeal on both decrees.

Mr. EARLY here stated that the ship was valued at three thousand five hundred dollars; and then proceeded to the fourth article, which is as follows:

“ART. 4. That whereas for the due, faithful, and impartial administration of justice, temperance and sobriety are essential qualities in the character of a judge; yet the said John Pickering, being a man of loose morals and intemperate habits, on the 11th and 12th days of November, in the year 1802, being then judge of the district court, in and for the district of New Hampshire, did appear on the bench of the said court, for the administration of justice, in a state of total intoxication, produced by the free and intemperate use of intoxicating liquors; and did then and there frequently, in a most profane and indecent manner, invoke the name of the Supreme Being, to the evil example of all the good citizens of the United States; and was then and there guilty of other high misdemeanors, disgraceful to his own character as a judge, and degrading to the honor of the United States.

“And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting, at any time hereafter any further articles, or other accusation or impeachment against the said John Pickering; and also of replying to his or any answers which he shall make to the said articles, or any of them; and of offering proof to all and every other articles, impeachment, or accusation, which shall be exhibited by them as the case shall require, do demand that the said John Pickering may be put to answer the said high crimes and misdemeanors; and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as may be agreeable to law and justice.”

*Thomas Chadbourne, Deputy Marshal of New Hampshire, sworn.*

He said he was present at the trial of the libel. On the first day nothing was done. On the second day the proceedings commenced. It was a hurly-burly business. The Judge refused hearing anything about the ship, and when an appeal was requested, ordered the court to be adjourned; and the court was adjourned. He saw the Judge on the morning of the second day, who was in a situation that disqualified him from discharging

the duties of his office. The marshal required the deponent to go with him to the Judge's house, but he refused.

The deponent being asked, what was the situation of the Judge when he came into court? replied, that all was disorder and confusion; the Judge appeared to be in a state of intoxication. The attorney of the United States said, the revenue would be injured by such proceedings. The Judge damned the revenue, and said that he got but a thousand dollars of it, and cared nothing about it. He desired a number of gentlemen to come on the bench and sit along side of him. Some refused. He called me up, said Mr. Chadbourne. I went up, and sat along side of him. He talked to me in a most strange way. He called on a perfect stranger to sit aside of him. When I went up, he said, now damn him, we will fight him. I do not know what he meant. He said to a person within the bar, if you do not come up, I will come down and cane you. I believe he said the same thing to the marshal. I sat on one side of the Judge, and another person on his other side. When, on the first day, after holding his head down awhile, he ordered me to adjourn the court; he said, “I'm damn'd drunk, but I'll be sober by the morning.”

Question. Did the Judge exhibit all the usual marks of intoxication?

Answer. He did.

Question. Did you smell his breath?

Answer. No. I wanted nothing to convince me of his intoxication.

Question. Was he intoxicated at his own house on the first day?

Answer. Yes. He appeared so to me. He said, with some profane language, he had heard enough about the damned ship; and he did not mean to hear any more about her.

Question. What language did he use when the district attorney spoke of filing a bill of exceptions?

Answer. He said he would then sit along with an old wig. I did not, at first, know what he meant, but understood afterward that he meant a judge of the circuit court.

Question. Is Judge Pickering habitually addicted to intoxication?

Answer. For ten years past he has appeared to me to have been given to the habit of intoxication. He has appeared to me to exhibit all the symptoms of growing intoxication.

Question. How long have you known him?

Answer. For forty years.

Question. Had his face the usual marks of intoxication?

Answer. A good deal so—divers times before the trial I have seen him intoxicated in the streets.

Question. Have you ever seen him reel like a drunken man?

Answer. I have seen him go out sober in the morning, and return intoxicated at noon.

*Jonathan Steele examined.*

I was present at the trial in the district court, and remarked when the Judge entered the court

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that he was intoxicated. He with great difficulty got in. He exhibited every mark of intoxication; staggered and reeled, spoke in a thick way, scarcely articulating his words so as to be understood by me, though I was directly under him. He ordered the crier to open the court, and the gentleman to proceed with the trial, without having the libel read. He said he had heard of the damned libel. The gentleman hesitated; the Judge called on a number of the officers to come up on the bench; some refused, and others went up. To one person that refused, he said he would come down and give him a caning. No business was done, and the court adjourned.

The next morning the Judge came into court in the same situation, as much intoxicated as on the preceding day. He pursued the same system. Before the libel was read the counsel of the claimant was heard. The Attorney of the District then made a few observations, and called his witnesses. The Judge said their examination was inadmissible; abruptly stopped the trial; decreed the restoration of the ship and cables, and ordered the court to be adjourned. The Judge was outrageous, and used many profane expressions, frequently invoking the name of the Supreme Being. The Attorney of the District said he claimed an appeal. The Judge replied, appeal and be damned. The claimant's counsel objected to the appeal, on the ground that the valuation of the cables did not amount to three hundred dollars. The Judge said there should be no appeal. The District Attorney asked leave to file a bill of exceptions. The Judge refused, and adjourned the court.

On being interrogated, the deponent said it was the general opinion of the bystanders—of everybody present, that the Judge was drunk. The court was crowded, and this was the language in the mouth of everybody.

Question. When did you first hear of, or perceive the intoxication of Judge Pickering?

Answer. The first I ever knew of his intoxication, except on hearsay, was in May, 1799, at court. On that occasion he took three days to do some business that might have been done in half the number of hours. In November, 1799, I went into a barber's shop, where I found Judge Pickering, who could with great difficulty be kept in a chair. He staggered, when he went out of the shop, and with great difficulty got home. In March, 1800, he was at court, and appeared intoxicated. Before the next term he was removed into the country.

I saw him in November, 1802, when he conducted himself with more propriety than usual; and in December, 1802, he conversed rationally, and expressed himself with legal accuracy when he attended court. After the court broke up, he said no person ought to object to his getting drunk then. I saw him afterwards drunk, and was obliged to carry him to his carriage.

I saw him on one occasion ask for some spirits; and punch being given to him, he said that was nothing but beverage, and afterwards got brandy.

*Richard Culls Shannon, sworn.*

I was present at court on the 11th and 12th days of November, 1802. When I entered the Judge

was on the bench. The statement I have heard given by Mr. Sherburne, Mr. Chadbourn, and Mr. Steele is, I think, correct. On the first day the Judge appeared to me to be intoxicated. I found the deputy marshal on his right hand and — on his left. He called upon some person to come up and sit by him. The person declined. The Judge said if he did not come up, he would come down and cane him; said he had heard enough of the damned case, and damned the revenue. He appeared to be in a state of intoxication; that was the general impression of the bystanders.

I have seen the Judge other times intoxicated; when he staggered, and conversed like a drunken man. I have seen him in a state of intoxication three or four years before the trial; during the same time I have seen him, when he was free from intoxication, when he conversed rationally. I have seen him hold a court and conduct himself in a proper manner. I think I have seen him, within three or four years past, not intoxicated, when he conversed rationally. In the year 1792 I was at Amherst, when Mr. Pickering was chief justice. After a cause was opened, he adjourned the court; it was said he was sick.

*Interrogatories put to Mr. Steele.*

Question. Did you ever see Judge Pickering immediately after arising from bed?

Answer. Never.

Question. Did you ever see him when he was apparently perfectly sober?

Answer. I think I have.

Question. Did he then on all subjects speak correctly and rationally, or incoherently and wild?

Answer. He did not speak rationally on all subjects, though he generally conversed correctly; but he would sometimes tell strange stories.

Question. Was he sober when he told you those stories?

Answer. He appeared to be sober.

Question. What were those stories?

Answer. Such as that he had been sent abroad on an embassy; that he had been among the Indian nations, among which he said he performed many exploits, stating them. He would tell these stories immediately after conversing very rationally on other subjects.

Question. At what time did you discover that he began to tell these stories?

Answer. The first I knew of them was in April, 1801, when the circuit court sat. In the Summer of 1800 I heard of his being deranged.

Question. How long before did you understand him to have been in the habit of intoxication?

Answer. So long ago as March 1799.

Question. Did intoxication always appear to deprive him of his reason?

Answer. Yes. It produced extravagant conduct and conversation.

*Michael McCleary, Marshal for the District of New Hampshire, sworn.*

I was present on the 11th and 12th of November, 1802, at the trial of the libels. I went to the house of the Judge in the morning of the fifth day, and he stated to me the time appointed for

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holding the court. About that time, I again went to his house. He was not there. I afterwards met him in the streets, and took him by the arm, and led him to a bench. He ordered Mr. Steele to sit along side of him; he likewise ordered another person to come up on the bench, and said if he would not come up he would give him a damned caning. Mr. Livermore examined evidences on the part of the claimant; and after he sat down the Judge said, I decree the restoration of the ship and cables, and my decrees, like those of the Medes and Persians, are irrevocable. This was objected to by Mr. Sherburne, who begged to be indulged with a few remarks. The Judge said, you may go on to all eternity. Some witnesses were examined, when the Judge interrupted the proceedings and ordered the restoration of the vessel. On the fifth day, the Judge said, I'm damned drunk, but I will be sober to-morrow.

On the second day I went to the house of the Judge. He was not at home. In returning I passed a grog-shop, where I saw him with a pint cup in his hand. He was very feeble and could scarcely walk. I put him on the bench. Then came on what has been mentioned before about the decree. He ordered the court to be adjourned. The Judge at first allowed an appeal; Mr. Livermore objected to it, and he then reversed his decision. Mr. Sherburne asked leave to file a bill of exception. The Judge said, yes and be damned.

I saw the Judge in October last. He appeared in a general state of mind. I laid some papers before him that required considerable attention, and he examined them carefully.

Question. Have you seen him when he was quite sober?

Answer. I have, before breakfast. On the 11th of November, early in the morning, he appeared to be free from intoxication. It was notorious that his ill health was brought on by intemperance. I have often heard intemperance ascribed to him when chief justice.

President. When you saw Judge Pickering sober, did he appear in a state of insanity?

Answer. When I last saw him he appeared as well as ever. The woman with whom he lived said she was obliged to give him half a pint of spirits to go to bed with.

PRESIDENT. How long have you been Marshal?

Answer. Two years last May.

PRESIDENT. Had Judge Pickering the general character of drunkenness before he was appointed district judge?

Answer. He had the character of intemperance when chief justice.

Mr. STEELE examined.

Being interrogated, he said that he had been clerk of the court since the year 1789, and that it was generally understood that Judge Pickering's irregularities proceeded from intoxication; that was the general opinion.

PRESIDENT. Has Judge Pickering any property?

Answer. I do not know. He had a house in Portsmouth which was burnt. He also had a farm.

Question. Who manages his property?

Answer. I am unable to say whether he or some other person manages it.

Question. Do you know anything about his salary?

Answer. I have not the least knowledge as to his salary.

Question. When was his house burnt?

Answer. After the trial of the Eliza.

Mr. SHANNON, examined.

He said the prevailing opinion of the inhabitants of New Hampshire, and of those acquainted with Judge Pickering, was, that he was for some time past in the habits of intoxication. He had never heard of anybody having expressed an opinion that he was deranged longer than four years. He frequently saw him, and never conversed with him when deranged from any other cause than liquor. He did not himself believe him deranged. He believed it was so said that he might be kept in office.

The Judge had a house in Portsmouth, which was burnt in December, 1802. He had also another house in the country, in right, the witness believes, of his wife.

Being further interrogated, the witness said, he had known Judge Pickering for thirty-five years; though he was not so well acquainted with him as to visit at his house.

He said Judge Pickering was formerly very temperate. For eight or ten years past he was, by general reputation, in habits of intoxication. The witness never saw the Judge when he thought him insane.

Mr. STEELE being asked how long he had been acquainted with Judge Pickering—*answered*, for fifteen years.

Mr. NICHOLSON here addressed the Court. He said he wished, in case it should be deemed proper by the Court, to ask one of the witnesses whether he had conversed with the family physician of Judge Pickering, and what his opinion was as to the origination of his insanity. Mr. N. observed that he had doubts of the propriety of this question, and therefore, in the first instance, stated it to the Court.

The Court decided the question inadmissible.

EBENEZER CHADWICK—sworn.

The deponent had been acquainted, though not intimately, with Judge Pickering, about twenty-two years. He was deputy sheriff, when Mr. Pickering was Chief Justice of New Hampshire. He thinks he discovered habits of intoxication in him while a State judge. The first instance he knew was in 1791, when he was Chief Justice. He has frequently seen him intoxicated since judge of the district court. He has seen him stagger, and be obliged to take hold of the fence to support himself. It is near three years since he discovered these symptoms. The general impression of his neighbors is, that he has been a long time in the habit of drinking too freely.

EDWARD HART—sworn.

I have known Judge Pickering for twenty-five or thirty years. I was deputy sheriff when he was Judge of the Supreme Court of New Hampshire. I have never but once before the trial, ten or

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eleven years ago, seen in him any symptoms of intemperance. On that occasion he was on the bench, and appeared to be sick; he left the court, when I went to him, and then concluded that he was intoxicated. I have frequently seen him since. There was a report of his being in the habit of intoxication, but I never saw him so.

I was present at the trial of the Eliza. I cannot say more of the proceedings on that occasion than has been said by other gentlemen. Whether his conduct arose from insanity or drunkenness I cannot say. It was generally thought at Portsmouth that liquor was the cause of his insanity.

Mr. WHIPPLE, being interrogated, said that he had known Judge Pickering for thirty years; and that about eight years ago, from the face and general appearance of Judge Pickering, he was led to suppose that he was in the habit of intoxication.

[Mr. Whipple was here going on to state some conversation he had with Judge Pickering's physician at this time, which he was induced to ask in consequence of solicitude to gain true information as to the reported intemperance of the Judge; when he was interrupted by the Court, and informed that this species of testimony had been already decided to be inadmissible.]

Question. What was the general opinion respecting Judge Pickering.

Answer. The general opinion was, that he was in habits of intoxication.

Inquiry being made of the witness, as to the knowledge he had of the management of the property of Judge Pickering, and the mode in which he received his salary;—he said, he had seen some post notes within the last four months issued in the name of Judge Pickering, and endorsed by his son, and he understood that he had drawn his salary by the transmission of those notes. The witness had never seen such notes till within these four months past—six months ago he had seen them endorsed by himself.

Mr. NICHOLSON informed the Court, that the managers here closed the testimony they had to offer. Whereupon they withdrew, and the Court adjourned until the next day.

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FRIDAY, March 9.

On the suggestion of Mr. TRACY, SIMEON OLcott, and WILLIAM PLUMER, Senators from New Hampshire, were respectively sworn and affirmed.

Mr. OLcott.—I have had an acquaintance with Judge Pickering for more than thirty years last past, but more immediately for about the last thirteen or fourteen years last past; we being justices of the Supreme Court for New Hampshire, for about that term, until he was removed to the district court, during which time we were together, on the circuits, about five months in each year, and generally lodged and travelled together, while on the circuits; and during that term I never knew, heard, or suspected, that said Pickering was at any time intoxicated with, or made excessive use of spirituous liquor. He was often affected with a nervous complaint, or what was called the hypochondria, which sometimes produced extraordi-

nary effects, but he never saw the effect of spirituous liquors, which he thinks he should have noticed, if true, as his seat was generally next to said Pickering, while on the bench. As to the testimony of Mr. Hart I am certain it is in part a mistake, as he says, what he testifies happened before I was on the bench—whereas in fact, I was justice of said court before said Pickering, and continued so after his removal to the district court; as to the fact, as related by said Hart, he has no perfect recollection, but has an idea that said Pickering did once leave the court at Portsmouth and went home, under a complaint of sickness, but he did not think any such cause existed as alleged by said Hart, nor does he believe the same well founded. As to the testimony of Mr. Shannon, so far as it relates to what occurred at the Supreme Court at Amherst, I have a full and perfect recollection of what then took place, as the particular circumstances made a deep impression on my mind; it may be noticed, the Supreme Court of New Hampshire consists of four justices, three of whom were necessary to make a quorum to do business; at the court mentioned by said Shannon, three justices only attended, which were Pickering, Farrar, and myself. After the court had proceeded in business, I think for one or two days, said Pickering, while at our lodgings, and before the opening the court for that day, complained of being very unwell, and objected against going into court, for that reason; but, as the court could not form a quorum for business without him, he was persuaded to make the attempt. After being in court a short time, and having made some progress in business, said Pickering complained of being so unwell as not to be able to keep his seat longer, on which the court adjourned to the next day, hoping he might then be able to attend, but that not happening, it was farther adjourned, and this for three several times, if my recollection serves me; where, from the opinion of the physicians who attended Judge Pickering, there was no probability he would be able to attend (in the court-house) that term, the court was adjourned to his lodgings, in order to complete the business as far as they proceeded; which having done, the court was adjourned without day. The disorder with which said Pickering was affected at that time was a violent dysentery, and his life was thought to be in much danger—and I never heard, or thought, (before said Shannon's testimony) that any person suspected it to be the effect of intemperance; and, from every circumstance by which I can judge, am convinced said testimony is altogether incorrect and erroneous.

Mr. PLUMER.—I have been intimately acquainted with Judge Pickering for near twenty years; within that term he held some of the most important offices in the State, and discharged the duties thereof with great propriety. From 1785 to 1790, I spent much time in company with him, particularly during his attendance in the Legislature, and at the courts of law; and frequently lodged with him at the same house. In 1790, he was appointed chief justice of the supreme court of judicature in New Hampshire, and continued until February, 1795, when he was appointed dis-



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strict judge. When he was chief justice, I was much in company with him, attending the same court, and travelling and lodging with him. During all the time aforesaid, and, I think, until 1800, he was very temperate; and I have no recollection of seeing him once disguised with intoxicating liquors. His reputation for temperance and sobriety were fair and general. I never heard a suggestion of his being intemperate, until after I was informed of his insanity, which was about four years since. I have seen him many times within the last four years; sometimes he was intoxicated, at other times he was sober; but when wholly free from intoxication he appeared to me to be in a state of insanity. On some subjects he conversed more rationally than on others; but on particular subjects he was wild and incoherent. He was formerly remarkable for the chastity and delicacy of his language; but, in the last four years, he was often profane, and sometimes obscene. I saw him within a week after the trial of the libels mentioned in the impeachment. At the first instance he was sober, but quite insane; at the second, he appeared intoxicated.

I saw him two days before I left the State, (the 30th September last,) at Newington, where he then lived. He was then altogether free from intoxication, although he had spirituous liquors at his command, and took some from a closet, and urged me to drink. He then conversed on some subjects rationally, but on others was incoherent, wild, and extravagant. He appeared weak, emaciated, and, from bodily infirmities, was then, in my opinion, unable to bear the fatigues of a journey to this place.

The judge, for many years, has been subject to nervous and hypochondriac complaints, and these have increased till they have produced what, I think, is a state of confirmed insanity. I believe (for I am required to give my opinion) that his insanity was the cause of his intemperance. Though I think it not improbable that, after his insanity had produced a degree of intemperance, the intemperance and insanity might then act mutually as cause and effect; but I have no doubt that the insanity preceded the intemperance.

Mr. Shannon, being interrogated, said that the first he had heard of Judge Pickering being in habits of intoxication was in the year 1792. About four or five years ago, he saw him intoxicated, and he has frequently seen him drunk since.

Mr. Hart deposed that Judge Pickering, in 1792, had not been in court more than half an hour before he appeared intoxicated, when he left the bench. He was induced to believe his sickness arose from intoxication, from having smelt his breath, which clearly smelt of liquor. The deponent at the time communicated the circumstance to Mr. Chadwick.

Mr. Chadwick said he recollected that, about nine or ten years ago, there had been a laugh raised against the judge on that account.

Mr. Steele said he had been clerk of the court ever since 1789. The first he had heard of the intoxication of Judge Pickering, was about seven years ago. In October, 1799, he was so intoxi-

cated that he could not get into court. He never heard of his insanity till April, 1800. His conjecture was, that the report of insanity was raised as a cover to his intoxication. He thinks he heard the report of insanity from the connexions of Judge Pickering. The general report was, that he was intoxicated.

Mr. NICHOLSON observed that the managers would withdraw for a few minutes.

The managers having, in a short time, returned, Mr. NICHOLSON, in their behalf, addressed the Court, and said the managers of the House of Representatives considered the testimony offered in support of the articles of impeachment so conclusive and pointed, as to render it impossible for them to elucidate or enforce it by any observations in their power to make. He was, therefore, directed by the managers to inform the Court that they submitted the articles on the evidence offered, entertaining no doubt of full justice being done by the decision of the Senate.

Whereupon the managers retired.

Mr. TRACY offered the following motion:

*Resolved*, As the opinion of this Court, that the proceedings on the articles of impeachment, exhibited by the House of Representatives, against John Pickering, be postponed to the — day of — next.

It passed in the negative—yeas 10, nays 20, as follows:

YEAS—Messrs. Adams, Bradley, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

NAYS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, John Smith of New York, Samuel Smith, Stone, Sumter, Venable, Worthington, and Wright.

The Court then adjourned to the next day.

SATURDAY, March 10.

Mr. FRANKLIN was chosen President *pro tem*. Upon the opening of the Court, Mr. WHITE submitted the following resolution:

*Resolved*, That this Court is not at present prepared to give their final decision upon the articles of impeachment preferred by the House of Representatives against John Pickering, district judge of the district of New Hampshire, for high crimes and misdemeanors, the said John Pickering not having appeared, or been heard by himself or by counsel; and it having been suggested to the Court by Jacob S. Pickering, son of the said John Pickering, that the said John Pickering, at the time of the conduct charged against him in the said articles of impeachment, as high crimes and misdemeanors, was, and yet is, insane, which suggestion has been supported by the testimony of two members of the Court, and by the affidavits of sundry persons, whose integrity is unimpeached; and it being further suggested in the said petition, that at such future day as the Court may appoint, the body of the said Pickering shall be produced in Court, and further testimony in his behalf, which will enable the Court to judge for themselves as to the insanity of the said John Pickering, and to act more understandingly in the premises; but that the said John Pickering, owing to bodily infirmity, could not be brought to Court at present, at so great a distance, and at this inclement season of the year, without imminent hazard of his life.

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Mr. NICHOLAS, Mr. WRIGHT, and other gentlemen, objected to the resolution as not being in order.

Mr. ANDERSON asked if it would be in order to move an amendment to it?

Mr. ADAMS said, he would object to any amendment to it, as, by the rule of the Court, a gentleman had a right to a vote upon any specific proposition he might please to submit, connected with the trial.

Mr. WHITE called for the reading of the rule.

Mr. ANDERSON then moved that the resolution, submitted by the gentleman from Virginia yesterday, be taken up as being entitled to be acted upon first.

The President *pro tem.* declared that the resolution of the gentleman from Delaware was fairly before the Court, and must be disposed of in some way before anything else could be taken up.

A motion for postponing the further consideration of it was then made and withdrawn.

Mr. NICHOLAS hoped it would not be permitted to go upon the Journals of the Court.

Mr. JACKSON moved the previous question, viz: "Shall the main question be now put?"

Mr. WHITE hoped that whatever question should be taken on the subject, should be by yeas and nays; that his resolution, and the manner in which it might be got rid of, should be seen and understood.

Mr. ANDERSON then moved to amend the resolution, by striking out the words "not having been heard by himself or counsel;" and all after the words "was and yet is insane," to the end of the resolution.

On motion of Mr. DAYTON, the galleries were cleared and the doors closed.

At three o'clock the doors were opened, and the question was taken upon the resolution as at first submitted—yeas 9, nays 19, as follows:

YEAS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

NAYS—Messrs. Anderson, Armstrong, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, Sam'l Smith, Sumter, Venable, Worthington, and Wright.

So it passed in the negative.

On motion of Mr. NICHOLSON, the resolution he had submitted the day before for notifying the House of Representatives that the Court would be prepared to pronounce judgment on Monday next, was taken up and passed—yeas 20, nays 9. Those who voted in the affirmative last above, here voted in the negative, and so *vice versa*, except Mr. JOHN SMITH, of New York, who was not then present, and who voted here in the negative.

The Court then adjourned.

MONDAY, March 12.

The Court being opened, Mr. WHITE inquired how the question was to be taken; whether upon each article separately, as is practised in the House of Lords, or upon the whole together? He hoped upon each separately, as gentlemen might wish to

vote affirmatively on some and negatively on others, from which privilege they must be precluded by giving but one general vote of guilty or not guilty. He would, therefore, beg leave to submit to the consideration of the Court the following, as the form of the question to be put to each member upon each article of impeachment, viz:

"Is John Pickering, district judge of the district of New Hampshire, guilty of high crimes and misdemeanors upon the charges contained in the — article of impeachment, or not guilty?"

For this form of question, Mr. W. observed, he could adduce precedent; it was nearly the same as was used in the very celebrated case of Warren Hastings, and he presumed would collect the sense of the Court with as much certainty as any that could be proposed, which was his only object.

After some conversation, Mr. ANDERSON moved the following as the form, and prayed that it might be taken up:

"Is John Pickering, district judge of the district of New Hampshire, guilty as charged in the — article of impeachment exhibited against him by the House of Representatives?"

The President *pro tem.* declared that it would not be in order to take it up till the motion of the gentleman from Delaware was acted upon, as it was first before the Court, and had not yet been disposed of in any way; and was about to put the question following upon it, when—

Mr. ANDERSON mentioned that he had objections to the form of question proposed by the gentleman from Delaware, and moved to strike out the words "of high crimes and misdemeanors."

On motion, the galleries were cleared and the doors closed. After some debate, Mr. WHITE's form of question was lost—only ten voting in favor of it, and eighteen against it.

Mr. ANDERSON's form was then adopted—yeas 18, nays 9, as follows:

YEAS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, Israel Smith, John Smith of Ohio, John Smith of New York, Sumter, Venable, Worthington, and Wright.

NAYS—Messrs. Adams, Dayton, Hillhouse, Olcott, Pickering, Plumer, Tracy, Wells, and White.

Mr. WHITE stated, that he believed Judge Pickering had practised much of the indecent and improper conduct charged against him in the articles of impeachment; that he had been seen intoxicated, and heard to use very profane language upon the bench; that he had acted illegally and very unbecomingly a judge in the case of the ship *Eliza*, as charged against him in the articles, but that he was very far from believing that any part of his conduct amounted to high crimes and misdemeanors, or that he was in any degree capable of such an offence, because, after the testimony the Court had heard, scarcely a doubt could remain in the mind of any gentleman, but that the judge was actually insane at the time; and Mr. W. wished to know whether it was to be understood, by the two last votes just taken, that the

*Trial of Judge Pickering.*

Court intended only to find the facts, and to avoid pronouncing the law upon them; that they could have it in view to say merely, that Judge Pickering had committed the particular acts charged against him in the articles of impeachment, and, upon such a conviction, to remove him, without saying directly or indirectly whether those acts amounted to high crimes and misdemeanors or not; for, in the several articles they are not so charged, though judgment is demanded upon them as such. Upon such a principle, and by such a mode of proceeding, good behaviour, he observed, would be no longer the tenure of office; every officer of the Government must be at the mercy of a majority of Congress, and it will not hereafter be necessary that a man should be guilty of high crimes and misdemeanors in order to render him liable to removal from office by impeachment; but a conviction upon any facts stated in articles exhibited against him will be sufficient.

Mr. DAYTON observed, that the honorable gentleman from Virginia seemed to be offended at the language of his honorable friend from Delaware, who, in speaking of the proceedings on the impeachment, had called them a mere mockery of trial. To such terms, however, the ears of that honorable gentleman must be accustomed and accommodated, for, whilst either he or his friend had the honor of a seat in that body, they should designate this trial by no other character. It deserved no better appellation, and would be thus characterized in all parts of the United States where these proceedings could be seen and understood.

That the conclusion of this exhibition might perfectly correspond with its commencement and progress; that the catastrophe might comport with the other parts of the piece; the Senate were now to be compelled, by a determined majority, to take the question in a manner never before heard of on similar occasions. They were simply to be allowed to vote, whether Judge Pickering was guilty as charged—that is, guilty of the facts charged in each article—aye or no. If voted guilty of the facts, the sentence was to follow, without any previous question whether those facts amounted to a high crime and misdemeanor. The latent reason of this course was, Mr. D. said, too obvious. There were numbers who were disposed to give sentence of removal against this unhappy judge, upon the ground of the facts alleged and proved, who could not, however, conscientiously vote that they amounted to high crimes and misdemeanors, especially when committed by a man proved at the very time to be insane, and to have been so ever since, even to the present moment. The Constitution gave no power to the Senate, as the High Court of Impeachments, to pass such a sentence of removal and disqualification, except upon charges and conviction of high crimes and misdemeanors. The House of Representatives had so charged the judge, and had exhibited articles in maintenance and support, as they themselves declare, of those charges. The Senate had received and heard the evidence adduced by the

managers, and had gone through certain forms of a trial, and they now, by a majority, dictate the form of a final question, the most extraordinary, unprecedented, and unwarrantable. For himself, Mr. D. said, he felt at a loss how to act. He was free to declare that he believed the respondent guilty of most of the facts stated in the articles, but, considering the deranged state of intellect of that unfortunate man, he could not declare him guilty in the words of the Constitution; he could not vote it a conviction under the impeachment. Let the question be stated, as had been proposed by his honorable friend from Delaware, agreeably to the form observed in the well-remembered case of Warren Hastings—"Is John Pickering guilty of a high crime and misdemeanor upon the charge contained in the first, the second, the third, or the fourth article of the impeachment, or not guilty?" Or, if the Court preferred it, he should have no objection against taking the preliminary question, whether guilty of the facts charged in each article, provided they would allow it to be followed by another most important question, viz: whether those facts, thus proved and found, amounted to a conviction of high crimes and misdemeanors, as charged in the impeachment, and expressly required by the Constitution. Both these forms of stating the question were, it was now too evident, intended to be refused by the majority, and thus a precedent established for removing a judge in a manner unauthorized by that charter.

Mr. WHITE asked whether, after the question now before the Court—which goes merely to settle, as gentlemen themselves believe, the point whether Judge Pickering has committed the particular acts charged against him in the articles of impeachment or not—should be decided, it would then be in his power to obtain a vote of the Court upon another question which, without presenting at present, he would state in his place, viz: Is it the opinion of this Court that John Pickering is guilty of high crimes and misdemeanors, upon the charges exhibited against him in the articles of impeachment preferred by the House of Representatives?

The PRESIDENT *pro tem.* replied that he thought such a motion could not be received after the vote had been taken.

Mr. WRIGHT submitted the following as the final question, viz: Is the Court of opinion that John Pickering be removed from the office of judge of the district court of the district of New Hampshire? Carried.

Messrs. Armstrong, Bradley, Stone, Dayton, and White, retired from the court. The two last not because they believed Judge Pickering guilty of high crimes and misdemeanors, but because they did not choose to be compelled to give so solemn a vote upon a form of question which they considered an unfair one, and calculated to preclude them from giving any distinct and explicit opinion upon the true and most important point in the cause, viz: as to the insanity of Judge Pickering, and whether the charges contained in the articles of impeachment, if true, amounted in him to high crimes and misdemeanors or not.

*Trial of Judge Pickering.*

The questions were then taken in the presence of the managers, and of the House of Representatives, and decided as follows:

And on the question—Is John Pickering, district judge of New Hampshire, guilty, as charged in the first article of impeachment, exhibited against him by the House of Representatives?

It was determined in the affirmative—19 yeas, 7 nays:

YEAS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, I. Smith, S. Smith, John Smith of New York, Sumter, Venable, Worthington, and Wright.

NAYS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, Tracy, and Wells.

The same question was put, in the same way, upon the three remaining articles, and decided by a like result.

On the question—Is the Court of opinion that John Pickering be removed from the office of judge of the district court of the district of New Hampshire?

It was determined in the affirmative—yeas 20, nays 6:

YEAS—Messrs. Anderson, Baldwin, Breckenridge, Cocke, Ellery, Franklin, Jackson, Logan, Maclay, Nicholas, Potter, I. Smith, S. Smith, J. Smith of Ohio,

John Smith of New York, Sumter, Venable, Wells, Worthington, and Wright.

NAYS—Messrs. Adams, Hillhouse, Olcott, Pickering, Plumer, and Tracy.

The Court then adjourned *sine die*.

Early in the trial a question was raised as to the propriety of those gentlemen, viz: Samuel Smith, Israel Smith, and John Smith, of New York, who were during the last session members of the House of Representatives, and voted here upon the question for impeaching Judge Pickering, sitting and voting as judges upon the trial.

Mr. SMITH, of New York, wished to be excused.

Mr. S. SMITH declared that he would not be influenced from his duty by any false delicacy; that he, for his part, felt no delicacy upon the subject, the vote he had given in the other House to impeach Judge Pickering, would have no influence upon him in the court; his constituents had a right to his vote, and he would not by any act of his deprive or consent to deprive them of that right, but would claim and exercise it upon this as upon every other question that might be submitted to the Senate whilst he had the honor of a seat.

Upon the vote, it was carried by the usual majority.

# PROCEEDINGS AND DEBATES

OF THE

## HOUSE OF REPRESENTATIVES OF THE UNITED STATES,

AT THE FIRST SESSION OF THE EIGHTH CONGRESS, BEGUN AT THE CITY OF  
WASHINGTON, MONDAY, OCTOBER 17, 1803.

MONDAY, October 17, 1803.

This being the day appointed by a Proclamation of the President of the United States, of the sixteenth of July last, for the meeting of Congress, the following members of the House of Representatives appeared, produced their credentials, and took their seats, to wit:

*From New Hampshire*—Silas Betton, Clifton Claggett, David Hough, Samuel Hunt, and Samuel Tenney.

*From Massachusetts*—Phanuel Bishop, Manasseh Cutler, Jacob Crowninshield, Richard Cutts, Thomas Dwight, William Eustis, Seth Hastings, Nahum Mitchell, Ebenezer Seaver, William Stedman, Samuel Taggart, Joseph B. Varnum, Peleg Wadsworth, and Lemuel Williams.

*From Rhode Island*—Nehemiah Knight, and Joseph Stanton.

*From Connecticut*—Samuel W. Dana, John Davenport, Calvin Goddard, Roger Griswold, and John C. Smith.

*From Vermont*—William Chamberlin, Martin Chittenden, James Elliot, and Gideon Olin.

*From New York*—Gaylord Griswold, Josiah Hasbrouck, Henry W. Livingston, Andrew McCord, Samuel L. Mitchill, Beriah Palmer, Thomas Sammons, Joshua Sands, David Thomas, Philip Van Cortlandt, and Daniel C. Verplanck.

*From Pennsylvania*—Isaac Anderson, David Bard, Robert Brown, Joseph Clay, Frederick Conrad, William Findley, Andrew Gregg, John A. Hanna, Joseph Heister, William Hoge, Michael Leib, John Rea, Jacob Richards, John Smilie, John Stewart, Isaac Van Horne, and John Whitehill.

*From Delaware*—Cæsar A. Rodney.

*From Maryland*—John Campbell, Wm. McCreery, Nicholas R. Moore, Joseph H. Nicholson, and Thomas Plater.

*From Virginia*—Thomas Claiborne, Matthew Clay, John Dawson, John W. Eppes, Peterson Goodwyn, Edwin Gray, Thomas Griffin, David Holmes, John G. Jackson, Walter Jones, Joseph Lewis, jun., Thomas Lewis, Anthony New, Thomas Newton, jr., John Randolph, jun., Thomas M. Randolph, John Smith, James Stephenson, and Philip R. Thompson.

*From Kentucky*—George Michael Bedinger, John Boyle, John Fowler, Matthew Lyon, Thomas Sanford, and Matthew Walton.

*From North Carolina*—Nathaniel Alexander, Willis Alston, jun., William Blackledge, James Holland, Wil-

liam Kennedy, Nathaniel Macon, Richard Stanford, Marmaduke Williams, Joseph Winston, and Thomas Wynns.

*From Tennessee*—George Washington Campbell, William Dickson, and John Rhea.

*From South Carolina*—William Butler, Levi Casey, John Earle, Wade Hampton, Benjamin Huger, Thomas Moore, and Richard Winn.

*From Ohio*—Jeremiah Morrow.

And a quorum, consisting of a majority of the whole number, being present, the House proceeded, by ballot, to the choice of a Speaker; and upon examining the ballots, a majority of the votes of the whole House was found to be in favor of NATHANIEL MACON, one of the Representatives from the State of North Carolina: Whereupon, Mr. MACON was conducted to the Chair, from whence he made his acknowledgments to the House, as follows:

"*Gentlemen*: Accept my unfeigned thanks for the honor which you have conferred on me. The task which you have assigned me will be undertaken with great diffidence, but my utmost endeavors shall be exerted to discharge the duties of the Chair with fidelity. In executing the rules and orders of the House, I shall rely with confidence on the liberal and candid support of the House."

The House proceeded, in the same manner, to the appointment of a Clerk; and upon examining the ballots, a majority of the votes of the whole House was found in favor of JOHN BECKLEY.

The oath to support the Constitution of the United States, as prescribed by the act entitled "An act to regulate the time and manner of administering certain oaths," was administered by Mr. NICHOLSON, one of the Representatives from the State of Maryland, to the SPEAKER; and then the same oath or affirmation was administered by Mr. SPEAKER to all the members present.

WILLIAM LATTIMORE having also appeared, as the Delegate from the Mississippi Territory, the said oath was administered to him by the SPEAKER.

The same oath, together with the oath of office prescribed by the said recited act, was also administered by Mr. SPEAKER to the Clerk.

Ordered, That a message be sent to the Senate, to inform them that a quorum of this House is assembled, and have elected NATHANIEL MACON,

one of the Representatives for North Carolina, their Speaker; and that the Clerk of this House do go with the said message.

A message from the Senate informed the House that a quorum of the Senate is assembled, and ready to proceed to business; and that, in the absence of the VICE PRESIDENT of the United States, the Senate have elected the honorable JOHN BROWN their President, *pro tempore*.

*Resolved*, That Mr. J. RANDOLPH, jun., Mr. R. GRISWOLD, and Mr. NICHOLSON, be appointed a committee, on the part of this House, jointly, with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

*Ordered*, That the rules and orders, established by the late House of Representatives, shall be deemed and taken to be the rules and orders of proceeding to be observed in this House, until a revision or alteration of the same shall take place.

*Ordered*, That a committee be appointed to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House; and that Mr. EUSTIS, Mr. NEW, and Mr. HUGER, be the said committee.

The following committees were appointed pursuant to the standing rules and orders of the House, viz:

*Committee of Elections*—Mr. FINDLEY, Mr. GODDARD, Mr. M. CLAY, Mr. HUNT, Mr. VARNUM, Mr. LIVINGSTON, and Mr. KENNEDY.

*Committee of Claims*—Mr. J. C. SMITH, Mr. GREGG, Mr. PLATER, Mr. HOLMES, Mr. T. MOORE, Mr. CHAMBERLIN, and Mr. BEDINGER.

*Committee of Commerce and Manufactures*—Mr. S. L. MITCHELL, Mr. DANA, Mr. CROWNINSHIELD, Mr. MCCREERY, Mr. LEIB, Mr. NEWTON, and Mr. WYNNS.

*Committee of Revisal and Unfinished Business*—Mr. TENNEY, Mr. BOYLE, and Mr. DICKSON.

*Committee of Ways and Means*—Mr. J. RANDOLPH, jun., Mr. NICHOLSON, Mr. R. GRISWOLD, Mr. RODNEY, Mr. HASTINGS, Mr. J. CLAY, and Mr. SANDS.

A message from the Senate informed the House that the Senate have resolved that two Chaplains, of different denominations, be appointed to Congress for the present session, one by each House, who shall interchange weekly.

The House proceeded to consider the foregoing resolution of the Senate.

*Ordered*, That the farther consideration thereof be postponed until Thursday next.

The House then proceeded, by ballot, to the appointment of a Sergeant-at-Arms to this House; and, upon examining the ballots, a majority of the votes of the whole House was found in favor of JOSEPH WHEATON.

THOMAS CLAXTON was appointed Doorkeeper, and THOMAS DUNN Assistant Doorkeeper.

*Ordered*, That the Clerk of this House cause the members to be furnished, during the present session, with three newspapers to each member, such

as the members, respectively, shall choose, to be delivered at their lodgings; and that if any member shall choose to take any newspaper other than a daily paper, he shall be furnished with as many of such papers as shall not exceed the price of a daily paper.

A message from the Senate informed the House that the Senate have appointed a committee on their part, jointly, with the committee appointed on the part of this House, to wait on the President of the United States, and inform him that a quorum of the two Houses is assembled, and ready to receive any communications he may be pleased to make to them.

*Resolved*, That, unless otherwise ordered, the daily hour to which the House shall stand adjourned, during the present session, be eleven o'clock in the forenoon.

Mr. DAWSON, after a few preliminary observations, offered to the House the following resolution:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two thirds of both Houses concurring*, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid, to all intents and purposes, as part of the said Constitution, viz:

That, in all future elections of President and Vice President, the persons shall be particularly designated, by declaring which is voted for as President, and which as Vice President.

*Ordered*, That the said motion be referred to the Committee of the Whole House on the state of the Union.

The SPEAKER laid before the House sundry papers transmitted to him from Kenawha county, in the State of Virginia, touching the election of Thomas Lewis, one of the members returned to serve in this House, for the said State; which were read, and ordered to be referred to the Committee of Elections.

Mr. JOHN RANDOLPH, jr., from the joint committee appointed to wait on the President of the United States, and notify him that a quorum of the two Houses is assembled, and ready to receive any communication he may be pleased to make to them, reported that the committee had performed that service, and that the President signified to them that he would make a communication to this House, to-day, in writing.

A Communication was received from the PRESIDENT OF THE UNITED STATES to the two Houses of Congress. The said Communication was read, and referred to the Committee of the whole House on the state of the Union. [See Senate Proceedings of this date, for the Message, *ante* page 11.]

#### TUESDAY, October 18.

Several other members, to wit: from Pennsylvania, JOHN B. C. LUCAS; from Maryland, DANIEL HEISTER; from Virginia, JOHN CLOPTON, and JOHN TRIGG; from North Carolina, SAMUEL D. PURVIANCE; and from Georgia, DAVID MERIWETHER; appeared, produced their credentials, were qualified, and took their seats in the House.

OCTOBER, 1803.

Amendment to the Constitution.

H. OF R.

*Resolved*, That a committee be appointed to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States; and that the said committee have power to report by bill, or otherwise.

*Ordered*, That Mr. THOMAS, Mr. WALTON, Mr. HANNA, Mr. WADSWORTH, and Mr. ALEXANDER, be appointed a committee, pursuant to the said resolution.

*Resolved*, That a committee be appointed to inquire and report, by bill or otherwise, whether any further provisions are necessary for the more effectual protection of American seamen.

*Ordered*, That Mr. NICHOLSON, Mr. EUSTIS, Mr. SANDS, Mr. HAMPTON, Mr. KNIGHT, Mr. EPES, and Mr. JOSEPH CLAY, be appointed a committee, pursuant to the said resolution.

The SPEAKER laid before the House a letter from the Clerk, accompanying a memorial of Samuel J. Cabell, of Amherst county, in Virginia, with sundry depositions and other papers relating to the contested election of Thomas M. Randolph, one of the members returned to serve in this House for the district composed of the counties of Albemarle, Amherst, and Fluvanna, in the said State; likewise, sundry other depositions and papers in the case of the contested election of Thomas Lewis, another of the members returned to serve in this House for the said State of Virginia, which were addressed to him during the late recess of Congress; and also the copy of a contract entered into by him for printing certain documents, in pursuance of a resolution of this House, of the twenty-fifth of February last.

The memorial of Samuel J. Cabell was read, and, together with the depositions and other papers relating to the contested elections of members for Virginia, ordered to be referred to the Committee of Elections.

#### PRESIDENT'S MESSAGE.

The House resolved itself into a Committee of the Whole on the state of the Union; and, after some time spent therein, the Committee rose and reported the following resolutions:

1. *Resolved*, That so much of the President's Message as relates to the regulations proper to be observed by foreign armed vessels within the jurisdiction of the United States; to the restraining of our citizens from entering into the service of the belligerent Powers of Europe; and to the exacting from all nations the observance, towards our vessels and citizens, of those principles and practices which all civilized people acknowledge; be referred to a select committee.

2. *Resolved*, That so much of the President's Message as relates to the adopting of measures for preventing the flag of the United States from being used by vessels not really American, be referred to the Committee of Commerce and Manufactures.

3. *Resolved*, as the opinion of this committee, That so much of the Message of the President of the United States as relates to our finances, ought to be referred to the Committee of Ways and Means.

The House proceeded to consider the said resolutions, and the same being again read, were agreed to by the House.

*Ordered*, That Mr. JOHN RANDOLPH, JR., Mr. NICHOLAS R. MOORE, Mr. GAYLORD GRISWOLD, Mr. CROWNINSHIELD, Mr. BLACKLEDGE, Mr. RODNEY, and Mr. JOHN RHEA, of Tennessee, be appointed a committee pursuant to the first resolution.

WEDNESDAY, October 19.

Another member, to wit: PETER EARLY, from Georgia, appeared, produced his credentials, was qualified, and took his seat in the House.

*Ordered*, That Mr. JOHN CAMPBELL, Mr. HOUGH, Mr. CLOPTON, and Mr. STANFORD, be added to the committee appointed yesterday, to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States.

#### AMENDMENT TO THE CONSTITUTION.

The House resolved itself into a Committee of the Whole on the proposition amendatory to the Constitution, offered on Monday by Mr. DAWSON, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes, as part of the said Constitution, namely:

"That in all future elections of President and Vice President, the persons voted for shall be particularly designated, by declaring which is voted for as President, and which as Vice President."

Mr. NICHOLSON said, the proposition now under consideration contemplated an important amendment of the Constitution, and he thought it the duty of the House to render it so plain and intelligible, that hereafter no room should be left for doubt. The circumstances attending the election of the present Chief Magistrate were uncommon in their nature, and he believed had left an almost universal impression upon the public mind, that some amendment to the Constitution should be adopted. In doing this, however, it was necessary that the amendment should clearly and precisely express the meaning of those who are to adopt it as a rule for the future government of their conduct. The motion before the committee was sufficiently correct as far as it went, but, in his opinion, if that alone were to be agreed to, the Constitution itself would be extremely equivocal, and future Legislatures would be involved in difficulties not very far inferior to those from which we are anxious to relieve them. The Constitution, as it now stands, provides that the Electors shall assemble and vote for two persons, that the votes thus given shall be sealed up and sent to the President of the Senate, and by him shall be opened in presence of both Houses of Congress, and that the person having the greatest number of votes, if such number be a majority of all the Electors appointed, shall be the President; but if more than one have an equal number, then the House of Representatives is to choose one of them



as President; and if no person has a majority, then the House are to choose from the five highest on the list one of them as President. In all cases, however, it is further provided, *after the choice of a President, the person having the greatest number of votes shall be the Vice President.* Thus the Constitution now stands; but if it is amended in the manner proposed, it may be extremely uncertain what part of the original Constitution is annulled, and what is to remain in force. These are to be left to future construction. To make himself more fully comprehended, Mr. N. said he would suppose a case. After adopting the proposed amendment, A and B being voted for as President, have an equal number of the votes of the Electors, neither having a majority, and C and D have an equal number of votes; neither of these having a majority. In such an event, the Constitution as it now stands provides that the House of Representatives shall choose a President from the five highest on the list, and unless this provision is annulled by the amendment now proposed, a person voted for by the Electors, as Vice President, may be chosen by this House as President. Again, A and B being voted for as President, have an equal number of votes, but neither of them has a majority; C, D, and E, being voted for as Vice President, have likewise an equal number of votes, but neither of them have as great a number as the two first. Here, agreeably to the Constitution as it now stands, after the President is chosen, the person having the greatest number of votes is to be the Vice President, and of course the choice must fall upon a man who has not been voted for by the Electors as Vice President, but upon one who has been voted for as President. If these difficulties occur at this time, they will certainly present themselves with much more force, when the facts alluded to happen; and that they may happen no one can deny. To prevent these difficulties, Mr. N. said, was his object, and for this purpose he had prepared an amendment to the proposition under consideration. Too extensive a latitude of construction, he had always thought dangerous; as a very great difference of construction might honestly be given by different men. The committee would discover, after hearing the amendment which he was about to offer, that although he might be mistaken in the opinions he had offered, yet the safest course would be to adopt it. He was anxious to prevent all possibility of doubt on future occasions, and to make that clear and unequivocal, which in his opinion would otherwise be involved in obscurity. He then offered the following amendment to the proposition originally moved by Mr. DAWSON

“The person voted for as President, having the greatest number of votes, shall be the President, if such number be a majority of all the Electors appointed; and if no person have such majority, then from the five highest on the list of those voted for as President, the House of Representatives shall immediately choose by ballot one of them as President. And in every case, the person voted for as Vice President having the greatest number of votes, shall be the Vice President. But

if there should be two or more who have equal votes, the Senate shall choose one of them for Vice President.”

Mr. DAWSON observed that the resolution offered by him was, in his opinion, sufficiently clear and precise. But as the gentleman from Maryland (Mr. NICHOLSON) thought otherwise, he had no objection to the amendment proposed by him.

Mr. CLOPTON said, that he approved of the principle introduced in the amendment proposed by the gentleman from Maryland, (Mr. NICHOLSON,) but he considered the amendment as liable to some objection; that it was susceptible of objection inasmuch as it proposed to extend to this House a right of deciding the election, by choosing a President among five persons in case an event should happen so as to render their decision necessary; and that the same objection might be raised to that part of it which related to the election of Vice President, in case the interposition of the Senate should become necessary for that purpose. He said that, if the gentleman from Maryland would permit the word “five” to be struck out, and the word “two” to be inserted, he thought the amendment would then be more conformable to the principles of a representative Government. Mr. C. said, that the reason which induced the extension of a right to make a legislative decision from the five highest on the list, in case no person should have a majority of electoral votes, arose from a circumstance, which could not happen if the proposed amendment to the Constitution should be adopted. He said the circumstance he alluded to was, that under the existing mode, which requires each Elector to vote for two persons indiscriminately, without designating whether for President or for Vice President, there might be four persons, each of whom might have a number of votes, but a little less than a majority of the whole number of Electors appointed; and it might so happen that five persons might have a number equal to two-fifths of the whole number. He said that, therefore, it appeared proper to him that the right of choosing from the five highest on the list should be extended to the Legislature under the existing mode, as two-fifths were so considerable a proportion of the whole number; but, if the proposed amendment (which requires that the persons voted for should be designated whether voted for as President or as Vice President) should be adopted, the reason which existed and heretofore rendered the provision a proper one, will then entirely cease; for each of even two persons cannot then have a majority of the whole number of electoral votes, either on the list designated for President or on the list designated for Vice President. As, therefore, the operation of the resolution, if agreed to and adopted as an amendment to the Constitution, will so materially differ from the operation of the existing mode, he thought the alteration he proposed to the amendment of the gentleman from Maryland would be expedient. He said he begged leave to state a case, which might happen even at the next election, if that amendment should be introduced into the resolution without the alteration he proposed. He said that, at the next election, there will be

176 Electors; and it might so happen that one person might have 86 votes, a second person might have 87 votes, a third person might have 1 vote, a fourth person might have 1 vote, and a fifth person might have 1 vote. If, therefore, the number five, as proposed by the amendment of the gentleman from Maryland should be retained, either of those persons to whom only one electoral vote had been given might be chosen; and both of those persons, one of whom had 86 votes, the other 87 votes, might be rejected.

Mr. C. said, that he could not conceive that any member of this Committee would agree that such a decision could be proper, or any way consistent with the vital principles of our Government. He therefore wished that the gentleman from Maryland would consent to the alteration he had the honor to suggest to the Committee, and after the clause immediately succeeding the word proposed to be struck out, words to this effect might be added:

"If, on the list designated for President, no person shall have a majority of the whole number of Electors appointed, then, from the two highest on that list, the House of Representatives shall choose, by ballot, one of them for President; unless more than two persons shall have an equal number of votes, in which case the said House shall, in like manner, choose one of those persons for President."

Mr. CLOPTON said that a similar clause might be inserted in relation to a final decision of the election of Vice President, in case no person should have a majority of the electoral votes on the list designated for Vice President.

Mr. C. said, that he believed the provision, if conformed to the ideas suggested by him, would be more likely to insure the ultimate election of President and Vice President according to the will of the people, as the electoral votes are to be considered as their expression of the public will, than if the amendment should be agreed to exactly as proposed by the gentleman from Maryland; and if the alteration suggested did not obtain his assent, he (Mr. C.) begged leave to move the Committee to that effect.

Mr. NICHOLSON could not say that he had any material objection to the amendment recommended by the gentleman from Virginia, (Mr. CLOPTON.) In framing the resolution he had submitted, he had pursued the language of the Constitution, by inserting the word "five." The object of the gentleman might be obtained by striking out the word "five." To give time, however, for the House to reflect on the subject, and to compare the several propositions, he would move that the Committee should rise.

This motion was carried without dissent; when the House ordered the resolutions to be printed.

#### ABUSE OF THE AMERICAN FLAG.

Mr. MITCHILL moved that the Committee of Commerce and Manufactures may be discharged, and that the measures for preventing the flag of the United States from being used by vessels not really American, be referred to a select committee.

Mr. DANA.—I am of opinion that the Committee of Commerce is more proper to investigate the business in question than a select committee. It is more of a commercial nature. I have known several instances where people have come to this country to get naturalized, for the evident purpose of holding the shipping of this country in their names, and then returning to their real country, and to their allegiance to their Prince. An American Consul of the United States, in Europe, had sometime suspected these practices, and he determined to investigate the matter. For this purpose, on the next arrival of the vessels into the port of his consulship, he made the most minute inquiries into the situations of the owners. He found one of these owners to be second officer, in the city and port of arrival, and that he had actually come over to America to be naturalized, in order to entitle him to this privilege. This, and other instances which have come under my observation, convinces me that the inquiry is of a commercial nature, and I therefore hope and trust the Committee of Commerce will stand.

Mr. JOHN RANDOLPH did not think it material which committee it was referred to. He never thought a flag at the mast-head sufficient to cover property; and the meaning of the President must be, to comprise the whole security of our commerce; a Committee of Commerce, however, he thought most proper; it could be provided for in one and the same bill, yet it would make but little difference.

Mr. GRISWOLD observed, that it was a matter of no great importance to which committee it was referred. The object was fully and fairly to identify that we are Americans; that we do not wish to cover property not *bona fide* our own, and that we are ready to punish rogues who represent us. The principal proof, continued Mr. G., is the register, but our further object will be to furnish our vessels with other certificates of property. The business is, therefore, best, upon the whole, with a Committee of Commerce and Manufactures.

Mr. MITCHILL withdrew his motion, to make another, that the select committee be discharged.

Carried—yeas 55, nays 40.

#### MOURNING FOR SAMUEL ADAMS.

Mr. J. RANDOLPH observed, that it had lately been announced to the public that one of the earliest patriots of the Revolution had paid his last debt to nature. He had hoped that some other gentleman, better qualified for the task, would have undertaken to call the attention of the House to this interesting event. It could not, indeed, be a matter of deep regret that one of the first statesmen of our country has descended to the grave full of years and full of honors; that his character and fame were put beyond the reach of that time and chance to which everything mortal is exposed; but it became the House to cherish a sentiment of veneration for such men—since such men are rare—and to keep alive the spirit to which they owed the Constitution under which they were then deliberating. This great man,

the associate of Hancock, shared with him the honor of being proscribed by a flagitious Ministry, whose object was to triumph over the liberties of their country, by trampling on those of her colonies. With his great compatriot he made an early and decided stand against British encroachment, whilst souls more timid, were trembling and irresolute. It is the glorious privilege of minds of this stamp to give an impulse to a people and fix the destiny of nations.

Mr. R. said, that he felt himself every way unequal to the attempt of doing justice to the merits of their departed countryman. Called upon by the occasion to say something, he could not have said less. He would not, by any poor eulogium of his, enfeeble the sentiment which pervaded the House, but content himself with moving the following resolution:

*Resolved, unanimously,* That this House is penetrated with a full sense of the eminent services rendered to his country in the most arduous times by the late Samuel Adams, deceased; and that the members thereof wear crape on the left arm for one month, in testimony of the national gratitude and reverence towards the memory of that undaunted and illustrious patriot.

Mr. ELLIOT spoke as follows:

Mr. Speaker: If any apology could be necessary for a new member, unversed in Parliamentary proceedings, to offer for rising so early in the session, it would be, that the topic which arrests his attention is connected with the illustrious and ever memorable name of Samuel Adams. The eloquence of the gentleman from Virginia I shall not attempt to rival; his remarks were peculiarly impressive, and the more so from his remarking that he was unable to do justice to the subject. I have been extremely affected by his calling the attention of the House to the circumstance that the name of that patriot was united with that of John Hancock, in an exemption from the general pardon which the British Government offered to those American revolutionists, whom they dared to style rebels. The longer I should address the House upon this subject, the more feeble would be my language, as the greater would be my sensibility. I shall, therefore, only further observe, that I shall most cordially support the motion of the gentleman from Virginia.

The question was then taken on Mr. RANDOLPH's motion; which was agreed to unanimously.

Mr. NICHOLSON observed that, on occasions like the present, it had been usual for the House to adjourn. He, therefore, moved an adjournment; which was carried.

#### THURSDAY, October 20.

Several other members, to wit: from Massachusetts, SAMUEL THATCHER; from New York, JOHN SMITH; and from Maryland, JOHN ARCHER; appeared, produced their credentials, were qualified, and took their seats in the House.

The House then proceeded, by ballot, to the appointment of a Chaplain to Congress, on the part of this House; and, upon examining the ballots,

a majority of the votes of the whole House was found in favor of the Rev. WILLIAM PARKINSON.

Mr. NEW, from the committee appointed, on the seventeenth instant, to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House, made report; which was read, and ordered to be referred to a Committee of the Whole House on Monday next.

Mr. NICHOLSON said, that during the last session the House had voted an impeachment against John Pickering, judge of the district court for New-Hampshire, for high crimes and misdemeanors. But the impeachment had been voted at so late a period of the session, as rendered it impossible to act then finally upon it. In order that it might be now acted upon, and the impeachment proceed, he moved the appointment of a committee, to prepare articles of impeachment, with power to send for persons, papers, and records.

The motion was immediately taken up, agreed to and a committee of five appointed viz: Messrs. NICHOLSON, J. RANDOLPH, R. GRISWOLD, EARLY, and THATCHER.

#### AMENDMENT TO THE CONSTITUTION.

Mr. NICHOLSON, after making a few preliminary remarks, moved to discharge the Committee of the Whole from the further consideration of the propositions amendatory of the Constitution of the United States; which motion was agreed to.

Mr. N. then moved a reference of the propositions to a committee of seventeen, composed of one member from each State; which motion was agreed to, and the following members named of the committee: Messrs. Dawson, Betton, Butler, Stanton, Dana, Elliot, J. Smith of New York, Smilie, Rodney, Nicholson, Stanford, Blackledge, G. W. Campbell, Winn, Meriwether, Morrow, and Lattimore.

Mr. HUGER observed it would be recollected, by those gentlemen who had been members of the preceding Congress, that the propositions to designate the President and Vice President, in future elections, had originated in the State of New York, and been submitted to the consideration of Congress, in a resolution to that effect, from the Legislature of that respectable State. It would be recollected however by gentlemen, that the resolution in question, which had just been committed to a select committee, was accompanied by another, having for its object to divide the United States into election, and, to a certain extent, permanent districts, in all future Presidential elections; he thought therefore that, from respect to the State of New York, the latter as well as the first proposition should receive the attention of the House, and be equally referred to the select committee. He professed himself indeed to have little inclination or rather a great disinclination to make any changes in the Federal Constitution. He was sincerely attached to and perfectly satisfied with it as it now stands. The prosperity we had enjoyed under it, and the experience we had, made it a matter of great doubt with him, whether we should not lose more than we should gain by any alteration of this our great bond of Union. Nevertheless, as he was

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aware that a change in the Constitutional provision for electing the President and Vice President was a favorite point with many gentlemen, and from everything he could collect would in some shape or other be effected, he thought, as he had before observed, that respect alone for the State in which the business had originated, should lead us to take up and consider both of the resolutions recommended to us by New York. He would acknowledge, moreover, that his impressions were in general favorable to district elections. But as he presumed there would be no opposition to the motion for a reference to the committee of the resolution he held in his hand, he should not enter into any further argument in support of it. He would simply move, that the following resolution be submitted to the consideration of the select committee which had just been raised, viz:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the several States, as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid as part of the Constitution, to wit:*

That the State Legislatures shall, from time to time, divide each State into districts, equal to the whole number of Senators and Representatives from such State in the Congress of the United States; and shall direct the mode of choosing an Elector of President, and Vice President in each of the said districts, who shall be chosen by citizens having the qualifications requisite for Electors of the most numerous branch of the State Legislature; and that the districts so to be constituted, shall consist, as nearly as may be, of contiguous territory and of equal proportion of population, except where there may be any detached portion of territory, not of itself sufficient to form a district, which then shall be annexed to some other portion nearest thereto; which districts, when so divided, shall remain unaltered until a new census of the United States shall be taken.

The resolution was referred to the aforesaid committee—yeas 63.

Before the question of reference was taken, Mr. VARNUM inquired whether the concurrence of two-thirds, or of a simple majority, was required on points preliminary to the final adoption of amendments to the Constitution.

The SPEAKER observed that, according to the usage of the House, a simple majority was competent.

FRIDAY, October 21.

Two other members, to wit: from New York, JOHN PATTERSON and ERASTUS ROOT, appeared, produced their credentials, and took their seats in the House.

*Resolved, That the resolution of the tenth of December, one thousand eight hundred and one, authorizing Thomas Claxton to employ an additional assistant, two servants, and two horses, be, and the same is hereby, continued in force during this and the next session: and that the said Thos. Claxton be allowed a further sum of one dollar and twenty-five cents, to be paid in like manner,*

to enable him to increase the number of his attendants.

A message from the Senate informed the House that the Senate have appointed the Rev. Dr. GANTT, a Chaplain to Congress, on their part.

SATURDAY, October 22.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

*To the Senate and House of Representatives of the United States:*

In my communication to you of the 17th instant, I informed you that Conventions had been entered into with the Government of France for the cession of Louisiana to the United States. These, with the advice and consent of the Senate, having now been ratified, and my ratification exchanged for that of the First Consul of France, in due form, they are communicated to you for consideration in your Legislative capacity. You will observe that some important conditions cannot be carried into execution, but with the aid of the Legislature; and that time presses a decision on them without delay.

The ulterior provisions, also suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government, as time and distance have permitted me to obtain, will be ready to be laid before you within a few days. But, as permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not, forthwith, make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require.

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Mr. HUGER hoped the reading of the treaty and conventions would be dispensed with, and that they would be printed for the use of the members.

Mr. RANDOLPH hoped they would be read.

The reading of course was proceeded with, which being finished,

Mr. RANDOLPH moved a reference of the Message, and of the documents accompanying it, to the whole House on Monday; which motion was agreed to without a division.

Mr. RANDOLPH begged leave to submit a resolution, arising out of the Message, which he hoped would be considered at that time, for the purpose of referring it to the same committee to whom had been just referred the Message:

*Resolved, That provision ought to be made for carrying into effect the treaty and convention concluded at Paris on the 30th April, 1803, between the United States of America and the French Republic.*

Referred to the same committee, without a division.

Mr. LEIB said that during the last session a bill had passed the House for reducing the Marine Corps, but which had been arrested in the Senate. From the present circumstances of the country, it appeared to him a proper subject for consideration. He therefore submitted the following motion:

*Resolved, That a committee be appointed to inquire whether any, and if any, what alterations are necessary in the several acts relative to the establishment of*

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a Marine Corps, and in an act fixing the rank and pay of the commanding officer of the Corps of Marines: and that the committee be authorized to report by bill or otherwise.

Agreed to, and a committee of five appointed, viz: MESSRS. LEIB, JACKSON, CUTTS, L. WILLIAMS, and OLIN.

#### AMENDMENT TO THE CONSTITUTION.

Mr. DAWSON, from the committee to whom had been referred two propositions of amendment to the Constitution, made a report in part, as follows:

*"Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the different States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, viz:*

*"In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, of whom one at least shall not be an inhabitant of the same State with themselves. The person having a majority of all the Electors appointed as President shall be the President; and if there shall be no such majority, the President shall be chosen from the highest numbers, not exceeding three, on the list for President, by the House of Representatives, in the manner directed by the Constitution. The person having the greatest number of votes as Vice President shall be the Vice President; and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution."*

Referred to a Committee of the Whole on the state of the Union.

#### THE LOUISIANA TREATY.

Mr. RANDOLPH said the House would recollect a report made during the last session having relation to the subject of the Message of the President, delivered that morning, which had been acted upon at a late day. The report it had been thought inexpedient to publish at that time. As tending to throw light on the important subject before the House, and as a very able composition of a gentleman not then in his place, (Mr. NICHOLSON,) he thought it worthy of publication. He therefore moved its reference to the committee to whom the Message had been committed, and would afterwards move that it should be printed for the use of the members.

The SPEAKER doubted whether it was in order to receive such a motion respecting a paper which had been considered confidential.

Mr. RANDOLPH said he would withdraw his motion for the present, and bring it forward at a future time in a less objectionable shape.

Mr. GREGG observed that, if his memory did not fail, the injunction of secrecy was taken off, though there had been no resolution for printing the report. He regretted it had not been published

last session. If his impression was correct, it might now be published.

Mr. RANDOLPH said his friend from Pennsylvania would perceive a very cogent reason for not publishing the report at that time. Its contents rendered it inexpedient to publish it till the negotiations then depending should be terminated one way or the other. That reason had ceased, and the report might therefore be published. As it appeared necessary to clear the galleries before the injunction of secrecy could be taken off, he hoped that measure would be adopted before an adjournment took place. He would not, however, offer such motion until any other important business coming before the House might be attended to.

Mr. DANA inquired whether there was on the public Journal any notice of the report alluded to. If there were, they could act upon it in public; if there were not, they could not act.

Mr. GRISWOLD.—What, Mr. Speaker, is the question before the House?

The SPEAKER said there was no question before the House.

Mr. GRISWOLD.—The Speaker having decided that there is no question before the House, all this conversation is out of order.

Mr. RANDOLPH.—There is nobody out of order but the gentleman himself. His colleague asks if there is any mention of the report on the public Journal? For answering his inquiry the Clerk is examining the Journal. There is, therefore, a question before the House; and any member has a right to require that the Journal be examined to determine his mind on any particular business.

Mr. GRISWOLD was sorry to see a difference between the Speaker, and the gentleman from Virginia. The Speaker says there is no question before the House—the gentleman from Virginia says there is. It was very well for any gentleman requiring information contained in the Journal to inquire of the Clerk. But he never knew before that that made a motion.

Mr. LYON saw no difference between the Speaker and the gentleman from Virginia.

The Clerk said there was no mention on the public Journal of the report.

Mr. LYON moved that the doors be closed for the purpose of taking off the injunction of secrecy.

Mr. RODNEY was opposed to closing the doors. It might be proper to publish the report, but that could be directed at a future day. He felt very hostile to closing the doors of that House except on important occasions.

The question was taken on Mr. LYON's motion, which was lost—ayes 49, noes 62.

Mr. DAWSON wished, as the injunction of secrecy could not be taken off with open doors, that they would be shut for that purpose, when he should move a resolution for taking off the injunction on all subjects before us at the last session.

The SPEAKER said the regular course would be to move a reconsideration of the motion for closing the doors.

Mr. SMILIE hoped the House would reconsider the motion. He was no friend to shut doors; but

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it was apparent that the only way of giving publicity to the report was to come to a resolution to that effect with closed doors.

After some further remarks, the question of reconsideration was taken and agreed to; as also was the question for closing the doors.

The doors were then closed for a short time, and the injunction of secrecy respecting the report of the secret committee taken off, and the report ordered to be printed.

MONDAY, October 24.

### THE LOUISIANA TREATY.

Mr. GRISWOLD moved the following resolution :

*Resolved*, That the President of the United States be requested to cause to be laid before this House a copy of the treaty between the French Republic and Spain, of the first of October, one thousand eight hundred, together with a copy of the deed of cession from Spain, executed in pursuance of the same treaty, conveying Louisiana to France, (if any such deed exists;) also copies of such correspondence between the Government of the United States and the Government or Minister of Spain, (if any such correspondence has taken place,) as will show the assent or dissent of Spain to the purchase of Louisiana by the United States; together with copies of such other documents as may be in the Department of State, or any other Department of this Government, tending to ascertain whether the United States have, in fact, acquired any title to the province of Louisiana by the treaties with France, of the thirtieth of April, one thousand eight hundred and three.

Mr. GRISWOLD said that, by adverting to the Message of the President respecting the treaty and conventions lately concluded between the United States and the French Government, he found that the President, speaking on the subject, observes: "As permanent arrangements for this object require time and deliberation, it is for your consideration whether you will not forthwith make such temporary provisions for the preservation, in the mean while, of order and tranquillity in the country, as the case may require." He recommends to the immediate attention of Congress the passage of some temporary laws. This being the case, and the subject being about to be brought before the House, it became important that they should know distinctly what they had obtained by the treaty; and whether there were any territory belonging to the United States to take possession of, or any new subjects to govern. Inasmuch as if no new territory or subjects were acquired, it was perfectly idle to pass even temporary laws for the occupation of the one, or the government of the other. He believed it would be admitted that, by the express terms of the treaty, the United States had neither acquired new territory nor new subjects. The part of the treaty having relation to this point, is thus expressed :

"Whereas by the article the third of the treaty concluded at St. Ildefonso, the 9th Vendemiaire, an 9 (1st October, 1800,) between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows :

"His Catholic Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other States; and whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestable title to the domain and to the possession of the said territory; the First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of of the French Republic, forever, and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic, in virtue of the above-mentioned treaty concluded with His Catholic Majesty."

By this article it appears, that in a treaty between Spain and France, Spain stipulated to cede to France, upon certain conditions, the province of Louisiana. The treaty between the United States and the French Government does not ascertain whether these terms have been complied with by France, or whether the cession has been actually made by Spain to France. All that appears is a promise made by Spain to cede. If the terms stipulated by France have not been complied with, and Spain has not delivered the province to France, then it results that France had no title, and of consequence that the United States has acquired no title from France. If this be correct, the consequence will be that we have acquired no new territory or new subjects, and that it is perfectly idle to spend time in passing laws for possessing the territory, and governing the people. This point not being ascertained by the language of the treaty, it may be important to obtain documents that may satisfy the House whether the United States have acquired either new territory or new subjects. In the treaty lately concluded with France, the treaty between France and Spain is referred to; only a part of it is copied. The treaty referred to must be a public treaty. In the nature of things it must be the title-deed for the province of Louisiana. The Government must have a copy of it. As there is but a part recited, it is evidently imperfect. It becomes therefore necessary to be furnished with the whole, in order to ascertain the conditions relative to the Duke of Parma; it also becomes necessary to get the deed of cession; for the promise to cede is no cession. This deed of cession, Mr. G. also presumed, was in the possession of Government. It was also important to know under what circumstances Louisiana is to be taken possession of, and whether with the consent of Spain, as she is still possessed of it. If it is to be taken possession of with her consent, the possession will be peaceable and one kind of provision will be necessary; but if it is to be taken possession of in opposition to Spain, a different provision may be necessary. From these considerations he thought it proper in the House to call upon the Executive for informa-

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tion on this point. Other important documents may, perhaps, likewise be in the hands of the President. Hence he considered it his duty, before the House went into a consideration of the resolutions laid on the table, to submit the following resolution:

*“Resolved, That the President of the United States be requested to cause to be laid before this House a copy of the treaty between the French Republic and Spain, of the first of October 1800, together with a copy of the deed of cession from Spain, executed in pursuance of the same treaty, conveying Louisiana to France, (if any such deed exists;) also copies of such correspondence between the Government of the United States and the Government or Minister of Spain (if any such correspondence has taken place) as will show the assent or dissent of Spain to the purchase of Louisiana by the United States; together with copies of such other documents as may be in the departments of this Government, tending to ascertain whether the United States have, in fact, acquired any title to the province of Louisiana by the treaties with France, of the 30th of April 1803.*

Mr. RANDOLPH hoped the resolution would not be agreed to. He was well apprized of the aspect which it was in the power of ingenuity to give to a refusal, on the part of that House, to require any information which gentlemen might think fit to demand of the Executive, however remotely connected with subjects before them. But the dread of imputations which he knew to be groundless should never induce him to swerve from that line of conduct which his most sober judgment approved. Did he indeed conceive that the nation, or the House, entertained a doubt of our having acquired new territory and people to govern; could he for a moment believe that even a minority, respectable as to numbers, required any other evidence of this fact than the extract from the treaty which had just been read, he would readily concur with the gentleman from Connecticut in asking of the Executive, whether indeed we had a new accession of territory and of citizens, or, as that gentleman had been pleased to express himself, subjects to govern. He hoped the gentleman would excuse a small variation from his own phraseology, since, notwithstanding the predilection which some Governments and some gentlemen manifested for this form, Mr. R. asked for himself the use of such as were more familiar to American ears and American constitutions.

The Executive has laid before this House an instrument, which he tells us has been duly ratified, conveying to the United States the country known under the appellation of Louisiana. The first article affirms the right of France, to the sovereignty of this territory, to be derived under the Treaty of St. Idefonso, which it quotes. The third article makes provision for the future government, by the United States, of its inhabitants; and the fourth provides the manner in which this territory and these inhabitants are to be transferred by France to us. There has been negotiated a convention, between us and the French Republic, stating, in the most unequivocal terms, that there does exist on her part a right to the country in

question, which is supported by the strongest possible evidence, and pledging herself to put us in possession of that right, so soon as we shall have performed those stipulations, on our part, in consideration of which France has conveyed to us her sovereignty over this country and people. From the nature of our Government, these stipulations can only be fulfilled by laws to the passing of which the Legislature alone is competent. And when these laws are about to be passed, endeavors are made to impede, or frustrate, the measure, by setting on foot inquiries which mean nothing, or are unconnected with the subject, and this is done by those who have always contended that there was no discretion vested in this House by the Constitution, as to carrying treaties into effect. If, sir, gentlemen believe that we must eventually do that which rests with us, towards effecting this object, to what purpose is this inquiry? Mr. R. begged the House not to impute to him any disposition to countenance this monstrous doctrine, whose advocates now found it so difficult to practise. On the contrary, he held in the highest veneration the principle established in the case of the British Treaty, and the men by whom it was established, that, in all matters requiring legislative aid, it was the right and duty of this House to deliberate, and upon such deliberation, to afford, or refuse, that aid, as in their judgments the public good might require. And he held it to be equally the right of the House to demand such information from the Executive, as to them appeared necessary to enable them to form a sound conclusion on subjects submitted, by that Department, to their consideration. But those who then contended that this House possessed no discretion on the subject, that they were bound implicitly to conform to the stipulations, however odious and extravagant, into which the treaty-making power might have plunged the nation—those who then said that we cannot deliberate, are now instituting inquiries to serve as the basis of deliberation—(for if we are not to deliberate upon the result, why institute any inquiry at all?)—inquiries, which are in their very nature deliberation itself. But whilst he arraigned the consistency of other gentlemen, Mr. R. said that it behooved him to assert his own. Information on subjects of the nature of that which they were then discussing, might be required for two objects: to enable the House to determine whether it were expedient to approve a measure which on the face of it carried proof of its impolicy; or to punish Ministers who may have departed from their instructions—who may have betrayed the interests confided by the nation to their care.

To illustrate this remark, let us advert to the case of the Treaty of London, generally known as Mr. Jay's treaty. That instrument had excited the public abhorrence. The objections to carrying it into effect were believed insuperable. This sentiment pervaded the House of Representatives, and when they demanded information from the Executive, they virtually held this language: "Sir, we detest your treaty—we feel an almost invincible repugnance to giving it our sanction—



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but if, by the exhibition of any information in possession of the Executive, we can be convinced that the interests of the United States have been supported to the utmost extent;—that, wretched as this instrument is, the terms are as good as were attainable; and that, bad as those terms are, it is politic under existing circumstances to accept them, we will, however reluctantly, pass the laws for carrying it into effect. The present case, if he understood anything of the general sentiment, was, happily, of a different nature. The treaty which they were then called upon to sanction, had been hailed by the acclamations of the nation. It was not difficult to foresee, from the opinions manifested in every quarter, that it would receive the cordial approbation of a triumphant majority of that House. If such be the general opinion—if we are not barely satisfied with the terms of this treaty, but lost in astonishment at the all-important benefits which we have so cheaply acquired, to what purpose do we ask information respecting the detail of the negotiation? Has any one ventured to hint disapprobation of the conduct of the Ministers who have effected this negotiation? Has any one insinuated that our interests have been betrayed? If, then, we are satisfied as to the terms of this treaty, and with the conduct of our Ministers abroad, let us pass the laws necessary for carrying it into effect. To refuse—to delay, upon the plea now offered, is to jeopardize the best interests of the Union. Shall we take exception to our own title? Shall we refuse the offered possession? Shall this refusal proceed from those who so lately affirmed that we ought to pursue this very object at every national hazard? I should rather suppose the eagerness of gentlemen would be ready to outstrip the forms of law in making themselves masters of this country, than that, now, when it is offered to our grasp, they should display an unwillingness, or at least an indifference, for that which so lately was all-important to them. After the message which the President has sent us, to demand, if indeed we have acquired any new subjects, as the gentleman expresses it, which renders the exercise of our legislative functions necessary, would be nothing less than a mockery of him, of this solemn business, and of ourselves. Cautionary provisions may be introduced into the laws for securing us against every hazard, although, from the nature of our stipulations, we are exposed to none. We retain in our own hands the consideration money, even after we have possession.

Mr. R. expressed himself averse to demand the Spanish correspondence. The reasons must be obvious to all. The possession of Louisiana by us, will necessarily give rise to negotiations between the United States and Spain, relative to its boundaries. These have probably commenced, and are now pending. He hoped, therefore, the House would go into committee on the Message of the President, and after resolving to pass the requisite laws, if further information shall be wanting in relation to the mode of taking possession, or any other object of detail, the Executive might be called upon to furnish it.

Mr. LYON said he might have agreed to the

resolution offered by the gentleman from Connecticut, had he brought it forward in a respectful manner. But the terms of the motion imply that the Executive has made a bargain for that, to which we have no right. He wished the gentleman would give a little of that confidence which he had been in the habit of giving so liberally on former occasions. For his part, he was willing to see all the papers. He had no doubt of obtaining possession of Louisiana; and that gentlemen might have seen the order of the Spanish Government to surrender the province to the French.

Mr. LYON concluded by saying he had only risen to express his sense of the indecency of the motion.

Mr. GODDARD did not intend to enter upon a long discussion of the resolution; but it seemed to him that the reasons of the gentleman from Virginia for opposing it were very erroneous. On what ground was the opposition made? Altogether on the ground that Spain had actually made the cession to France. Mr. G. apprehended no such impression had been made on the House by the information before them. In the first article of the treaty they learned what the title of France was. The treaty says,

"Whereas, by the article the 3d of the treaty concluded at St. Ildefonso, the 9th Vendemiaire, an 9 (1st October, 1800,) between the First Consul of the French Republic and His Catholic Majesty, it was agreed as follows:

"His Catholic Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations therein relative to his Royal Highness the Duke of Parma, the colony of province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other States.

"And whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestable title to the domain and to the possession of the said territory; the First Consul of the French Republic, desiring to give to the United States a strong proof of his friendship, doth hereby cede to the said United States, in the name of the French Republic, for ever and in full sovereignty, the said territory, with all its rights and appurtenances, as fully and in the same manner as they have been acquired by the French Republic in virtue of the above-mentioned treaty, concluded with His Catholic Majesty.

Mr. GODDARD asked whether the conclusion followed that France had an incontestable title to Louisiana? There was no such evidence. If in virtue of this treaty we purchase a promise on the part of His Catholic Majesty to cede, and not an incontestable title, he would ask if the promise constituted a title? France only says, we cede all our title. This, and this only, is the language of the instrument. If this is the case, is it not proper to inquire whether there are other acts by which Spain has ceded Louisiana to France? Such acts may exist. Certain stipulations were made by France to Spain, on which the cession depended. Do we not then wish to know whether these stipulations have been fulfilled and whether



they are binding, or whether Spain has waived them? Are there in existence any documents to that effect? It has been hinted that such documents exist in the newspapers; but are we in an affair of this magnitude to be referred to the dictum of a newspaper? He apprehended that this was a novel mode of legislation.

The gentleman from Virginia says that the 4th article of the treaty stipulates for the delivery of the country. That article is to this effect:

"There shall be sent by the Government of France a Commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependencies, in the name of the French Republic, if it has not been already done, as to transmit it in the name of the French Republic to the Commissary or Agent of the United States."

Now, what is the Commissary to do? He is, in the first instance, to receive the province from Spain. Can he transmit it to the United States before he receives it from Spain? We require to know, if Spain refuses to deliver Louisiana to France, can France transmit it to us? We desire to know whether there is any prospect of a refusal on the part of Spain.

Suppose we shall receive the colony from France, under the dictation of the First Consul to Spain, without experiencing any opposition from her. May not the time arrive, on a revolution in the affairs of Europe, when she will inquire by what title we hold it? Is it not proper then for us to obtain papers, by which our title may be fully understood?

One singular argument is used by the gentleman from Virginia. This treaty, he says, is hailed by the acclamations of the country. But Mr. GODDARD would ask if the public had any opportunity of examining it, and being fully acquainted with its principles and probable operation? It had been made public only within a few days. What evidence of popular affection for it can there yet have been manifested? Will people hail it with acclamation when they shall learn that it gives fifteen millions of dollars for a mere promise. At any rate, as all agree in the importance of the subject, and as we are all called upon to legislate upon it, is it not proper first to obtain all the necessary information that is to be had? The resolution goes this far, and no farther, and if gentlemen claim our confidence, ought they not to furnish us with information?

Mr. SMILIE remembered that a subject of this nature had been brought before the House, in the first session of the fourth Congress. He thought it proper to recur to the proceedings on that occasion, to learn the sentiments entertained at that day. At that day, it had been argued by certain gentlemen that the right of passing or not passing the necessary laws for carrying a treaty into effect did not belong to that House, but that they were under an absolute obligation to pass them; that they had no discretion on the subject. This was a doctrine which he did not believe true. He then believed that they possessed the right, and still entertained the same opinion. To show the

sentiments entertained in the case of the British Treaty, he would recur to the Journal of the House.

On the 24th of March, 1796, the following motion was made:

"*Resolved*, That the President of the United States be requested to lay before this House a copy of the instructions to the Minister of the United States who negotiated the treaty with the King of Great Britain, (communicated by his Message of the first instant,) together with the correspondence and other documents relative to the said treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed."

This resolution was carried in the affirmative by ayes and noes, and among the noes I observe, said Mr. S., the name of the mover of this resolution. The resolution was carried by a large majority, and sent to the President. What was his opinion? Not that I approve it, or am governed by it; though it ought, in my opinion, to be a rule on this occasion to those who coincided with him. On the 30th of March, the PRESIDENT communicated the following Message to the House:

"*Gentlemen of the House of Representatives:*

"With the utmost attention I have considered your resolution of the twenty-fourth instant, requesting me to lay before your House a copy of the instructions to the Minister of the United States who negotiated the treaty with the King of Great Britain, together with the correspondence and other documents relative to that treaty, excepting such of the said papers as any existing negotiation may render improper to be disclosed. In deliberating upon this subject, it was impossible for me to lose sight of the principle which some have avowed in its discussion, or to avoid extending my views to the consequences which must flow from the admission of that principle.

"I trust that no part of my conduct has ever indicated a disposition to withhold any information which the Constitution has enjoined upon the President as a duty to give, or which could be required of him by either House of Congress as a right; and with truth I affirm that it has been, as it will continue to be, while I have the honor to preside in the Government, my constant endeavor to harmonize with the other branches thereof, so far as the trust delegated to me by the people of the United States, and my sense of the obligation it imposes to preserve, protect, and defend the Constitution will permit.

"The nature of foreign negotiations requires caution, and their success must often depend on secrecy; and even when brought to a conclusion, a full disclosure of all the measures, demands, or eventual concessions, which may have been proposed or contemplated, would be extremely impolitic: for this might have a pernicious influence on future negotiations, or produce immediate inconveniences—perhaps danger and mischief in relation to other Powers. The necessity of such caution and secrecy was one cogent reason for vesting the power of making treaties in the President, with the advice and consent of the Senate—the principle on which that body was formed confining it to a small number of members. To admit, then, a right in the House of Representatives to demand, and to have as a matter of course, all the papers respecting a negotiation with a foreign Power, would be to establish a dangerous precedent.

"It does not occur that the inspection of the papers asked for can be relative to any purpose under the cog-

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nizance of the House of Representatives, except that of an impeachment, which the resolution has not expressed. I repeat, that I have no disposition to withhold any information which the duty of my station will permit, or the public good shall require to be disclosed; and, in fact, all the papers affecting the negotiation with Great Britain were laid before the Senate, when the treaty itself was communicated for their consideration and advice.

"The course which the debate has taken, on the resolution of the House, leads to some observations on the mode of making treaties under the Constitution of the United States.

"Having been a member of the General Convention, and knowing the principles on which the Constitution was formed, I have ever entertained but one opinion on this subject; and from the first establishment of the Government to this moment, my conduct has exemplified that opinion, that the power of making treaties is exclusively vested in the President, by and with the advice and consent of the Senate, provided that two-thirds of the Senators present concur; and that every treaty so made and promulgated, thenceforward becomes the law of the land. It is thus that the treaty-making power has been understood by foreign nations; and, in all the treaties made with them, *we* have declared and *they* have believed that, when ratified by the President, with the advice and consent of the Senate, they become obligatory. In this construction of the Constitution, every House of Representatives has heretofore acquiesced; and until the present time not a doubt or suspicion has appeared, to my knowledge, that this construction was not the true one. Nay, they have more than acquiesced; for, till now, without controverting the obligation of such treaties, they have made all the requisite provisions for carrying them into effect.

"There is also reason to believe that this construction agrees with the opinions entertained by the State conventions, when they were deliberating on the Constitution—especially by those who objected to it—because there was not required, in commercial treaties, the consent of two-thirds of the whole number of the members of the Senate, instead of two-thirds of the Senators present; and because, in treaties respecting territorial and certain other rights and claims, the concurrence of three-fourths of the whole number of the members of both Houses respectively, was not made necessary, is a fact declared by the General Convention, and universally understood, that the Constitution of the United States was the result of a spirit of amity and mutual concession. And it is well known that under this influence the smaller States were admitted to an equal representation in the Senate with the larger States, and that this branch of the Government was invested with great powers; for, on the equal participation of those powers the sovereignty and political safety of the smaller States were deemed essentially to depend.

"If other proofs than these, and the plain letter of the Constitution itself, be necessary to ascertain the point under consideration, they may be found in the journals of the General Convention, which I have deposited in the office of the Department of State. In those journals it will appear that a proposition was made, that no treaty should be binding on the United States which was not ratified by a law, and that the proposition was explicitly rejected.

"As therefore it is perfectly clear to my understanding that the assent of the House of Representatives is not necessary to the validity of a treaty; as the treaty

with Great Britain exhibits in itself all the objects requiring Legislative provision, and on these the papers called for can throw no light; and as it is essential to the due administration of the Government, that the boundaries fixed by the Constitution, between the different departments, should be preserved; a just regard to the Constitution, and to the duty of my office, under all the circumstances of this case, forbid a compliance with your request. GEO. WASHINGTON.

"UNITED STATES, March 30, 1796."

Mr. SMILIE concluded by saying he perceived no necessity for the papers desired by gentlemen, and should therefore vote against the motion.

Mr. RANDOLPH said, if the gentleman from Connecticut would confine his motion to the Treaty of St. Ildefonso, he should be ready to acquiesce in it, though he did not believe that instrument would throw any new light on the subject.

Mr. GREGG said his wish was that the resolution should be divided, and that the Treaty of St. Ildefonso only should be requested. It had been conceded that it might be of some use in ascertaining the limits of the cession. To the other members of the resolution he was opposed. He therefore moved a division of the question.

Mr. GRISWOLD remarked that it would be more orderly to move the striking out the last paragraph.

Mr. SANFORD did not rise to say, with his colleague, (Mr. LYON,) that the resolution offered by the gentleman from Connecticut was indecent, but to say that, in his opinion, it was altogether unnecessary. It appeared to be a fact, well understood in the United States, that Louisiana did, before the late convention, belong to France. The fact was recognised in the treaty. If this fact be acknowledged, what remains for us to do, but to pass the necessary laws for carrying into operation the convention concluded on the 30th of April? Though there might be no official information to that effect, he was correct in saying possession of the country had been given to France by Spain. What then can be necessary on our part to obtain possession, other than the passage of the necessary laws to carry the treaty into effect?

Mr. ELLIOTT was opposed to every part of the call on the Executive for papers. He had a variety of objections to this request, with the mention of all of which he should not, however, trouble the House. His great objection was, that the call was premature, and this appeared—in his opinion, clearly appeared—even from the showing of the honorable gentleman from Connecticut, (Mr. GRISWOLD,) and his honorable colleague, (Mr. GODDARD.) To their brilliant talents he was disposed to give the highest homage. The first gentleman was not only ingenious and indefatigable, but likewise thoughtful and profound. He had already been frequently delighted with his eloquence, and instructed by his intelligence. The remarks also of his colleague were ingenious, and worthy of attention. But still he thought them premature. For what purpose was this call made? The gentleman says his attention is called to the subject by the President informing us in his Message that it is necessary to pass temporary laws, and that thence it becomes desirable to learn whether we

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have acquired either new territory or new subjects. Mr. E. was clearly of opinion that as yet we had not, though in a short time, if the treaty were carried into effect, we shall acquire them. The difficulties stated by the gentleman, the least investigation will show to be imaginary. Young as I am, said Mr. E., and little conversant in diplomatic knowledge, I believe the views I shall exhibit will be as clear as those of that gentleman. The Message of the President, at the opening of the session, announces that "the enlightened Government of France saw, with just discernment, the importance to both nations of such liberal arrangements as might best and permanently promote the peace, friendship, and interests of both: and the property and sovereignty of Louisiana, which had been restored to them, has, on certain conditions, been transferred to the United States by instruments bearing date the 20th of April." The President then informs us, that, when these shall have received the Constitutional sanction of the Senate, they will, without delay, be communicated to the Representatives also, for the exercise of their functions, as to those conditions which are within the powers vested by the Constitution in Congress." The Message goes further, and informs us—not in the phraseology of the gentleman from Connecticut, that we have acquired new subjects, but—that if the treaty shall receive the Constitutional sanction of the Senate and House of Representatives, we shall gain an acquisition, not of subjects, but of citizens. "With the wisdom of Congress, says the President, it will rest to take those ulterior measures which may be necessary for the immediate occupation and temporary government of the country; for its incorporation into our Union; for rendering the change of Government a blessing to our newly adopted brethren."

Whether we acquire this territory and these citizens is consequential on the Constitutional ratification of the treaty.

But it is said that our title to Louisiana is deducible from the first article of the treaty, and that that article only contains a promise: and it is triumphantly asked whether the people of the United States will be satisfied with paying fifteen millions for a mere promise [Mr. ELLIOT here quoted the first article of the treaty.] I acknowledge, said he, that this is only an assertion of France of her incontestable title, and an assurance that on certain terms she will convey this title to the United States. But, according to the treaty and convention, an agent is to be appointed by France, who is to deliver up the possession before we pay the fifteen millions. But, say gentlemen, though this may be done, Spain may not abandon her title to the province. No such consequence, however, can result. The convention that follows the treaty contains a stipulation, that the stock created shall not be delivered until "after Louisiana shall be taken possession of in the name of the Government of the United States." So that, taking the treaty and the convention together, there can result none of the inconveniences apprehended. A treaty has been made between the First Consul and the Uni-

ted States, by which the First Consul has transferred to us the domain and jurisdiction of Louisiana. In the treaty it is stipulated that a commissary shall be sent to receive the country from the Court of Madrid and give us the possession. If these two articles be carried into effect, and they must be to make the treaty binding, we must obtain not only the actual but also the legal possession. It is incumbent, therefore, on us to do everything necessary on our part to realize the possession.

Mr. THATCHER said, though the gentleman who had just sat down had acquitted himself handsomely, he had neither convinced him that the resolution of the gentleman from Connecticut was ill-founded or unnecessary. As they were, in the capacity of a legislative body, called upon to pass laws for new territory and new citizens, it was, according to his understanding, necessary, in the first instance, to learn that they had acquired new territory and new citizens. The title to Louisiana, as derived to France from Spain, was stated in the first article of the treaty. [Here Mr. T. read the first article.] By this it appears that another treaty had been formed between France and Spain. It was admitted that the province had belonged to Spain; and to her it must still belong, unless France has performed certain stipulations agreed to as the price of the cession. The object of the mover is to obtain this treaty, and to learn whether France has performed these stipulations.

Gentlemen objecting to this resolution, have taken different grounds. Some oppose it as inconsistent with the sentiments that prevailed in the case of the British Treaty; others, because it is premature, and others, because it is unnecessary. He did not expect the first objection from any member on that floor; much less did he expect it from the quarter in which it originated. The advocates of the motion were charged with inconsistency. He was not a member of the House at the time of the British Treaty, but, on referring to the Journal, it would be perceived that the object of gentlemen who then called for papers was to go into the merits of the British Treaty. It would not be denied that the ground then taken by gentlemen on the other side was, that the House had a right to examine the merits of the treaty, and to the assertion of that right it was that the President answered. We now say that it is not necessary for us to act in our legislative capacity, intending, if it shall appear to be necessary, not to withhold acting. Mr. T. therefore conceived that they exhibited no inconsistency, as they did not purpose at this time to go into the merits of the treaty, and as they acknowledged the treaty, if constitutionally made, to be binding. But they wanted information on subjects of legislation.

It has been said that the newspapers inform us of the order of Spain to deliver Louisiana to France. But they were not to be guided by newspaper accounts. We desire to know from an authentic source whether the stipulations entered into by France have been executed. By the first article of the treaty it appears that "His Catholic-

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‘ Majesty promises and engages on his part, to cede to the French Republic, six months after the full and entire execution of the conditions and stipulations herein, relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and other States.’ This article goes to say that Spain may have altered the boundaries of Louisiana differently from what they were when France before possessed it. And for what we know, she has done so. Hence the importance of seeing the papers asked for. If we obtain the bare possession, it is one thing; the legal possession is another thing. It is one thing to govern the colony with a corps of civilians, and another and a different thing to govern it with an army. The President may, perhaps, have considered it a good bargain to obtain, for the payment of fifteen millions, the mere quitclaim of France to the province. At any rate it is proper that we should act with our eyes open; and, therefore, the importance of having a copy of the treaty entered into between the Governments of Spain and France, or evidence that Spain has acquiesced in the cession to the United States.

Mr. NICHOLSON was extremely glad to find that gentlemen on the other side of the House had at length abandoned the ground which they had taken some years ago. He was rejoiced that they were now willing to acknowledge, what they had heretofore most strenuously denied, that the House of Representatives had a Constitutional right, not only to call for papers, but to use their discretion in carrying any treaty into effect. That it must now be their impression was evident, or their conduct was surely unaccountable. Why else do they call for papers, why inquire into our title to the province of Louisiana? If the doctrine of a former day was still to be adhered to, why urge this inquiry? If gentlemen are consistent with themselves, if they have not forgot the lessons which they inculcated upon the ratification of the British Treaty, this House has no right to call for papers, no right to make inquiry, no right to deliberate, but must carry this treaty into effect, be it good or bad; must vote for all the necessary measures, whether they are calculated to promote the interests of the United States or not. The doctrines of old times, however, are now given up, the ground formerly taken is abandoned. We shall no longer hear that the Executive is omnipotent, and that the Representatives of the people are bound to vote, blindfolded, for carrying into effect all treaties which the President and the Senate may think proper to make and ratify. He thanked the gentlemen for the admission, and hoped that the country would profit by it hereafter.

He was happy to say that this was not now, nor ever was, the doctrine of himself and his friends. They meant to deliberate, they meant to use their discretion in voting away the treasure of the nation. He agreed with gentlemen, that if a majority of the House entertained any doubt as to the validity of the title we have acquired, they ought to call

for papers; and he had no doubt, if there was any dissatisfaction, they would call. He himself should have no objection to vote for the resolution if it was confined to proper objects, not indeed to satisfy himself, for he was already fully satisfied, but to satisfy other gentlemen; to satisfy the American people, that the insinuations thrown out about the title, are totally without foundation. The resolution in its present shape, however, was highly improper; it looked to extrinsic circumstances, and contemplated an inquiry into subjects totally unconnected with the treaty with France. What, said Mr. N., has Spain to do in this business? Gentlemen ask if she has acquiesced in our purchase, and call for her correspondence with our Government. What is the acquiescence of Spain to us? If the House is satisfied from the information laid on the table, that Spain had ceded Louisiana to France, and that France had since ceded it to the United States, what more do they require? Are we not an independent nation? Have we not a right to make treaties for ourselves without asking leave of Spain? What is it to us whether she acquiesces or not? She is no party to the treaty of cession, she has no claim to the ceded territory. Are we to pause till Spain thinks proper to consent, or are we to inquire, whether, like a cross child, she has thrown away her rattle, and cries for it afterwards?

The treaty itself, he said, and the conventions attached to it, furnished all the necessary information. By reference to the treaty it would be found, that Louisiana is ceded to the United States with the same boundaries that it had before been ceded with by Spain to France; and that France had obliged herself to send a commissary to New Orleans to receive the possession from Spain and to transfer it to us. For this the United States were to pay fifteen millions of dollars to the French Government. But how, and when? Not immediately; not till we had actually acquired the possession. And if France shall fail to put us into actual possession, the United States are not bound to pay a single dollar. So that the call for papers can be of no possible use. Suppose these papers should show that Spain had not acquiesced, what is this to us? Is her pleasure to be a law to the United States!

With regard to the Treaty of St. Ildefonso, Mr. N. said, he should have no objection to its being laid before the House, if it was in the possession of the Executive. In all probability, however, this was not the case, as it was known to be a secret treaty on other subjects of great importance between France and Spain. As to the deed of cession spoken of, he really did not understand what was meant, for he imagined it was not expected a formal deed of bargain and sale had been executed between two civilized nations, who negotiated by means of ambassadors. If there were any other papers which could give gentlemen more information, he had no objection, either, that these should be laid before them. Not indeed for his own satisfaction, but for that of those who were not already satisfied, if there were any of that description. One very important paper, he

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knew from high authority, was certainly in existence, and possibly might be in the power of the Executive. This was a formal order, under the royal signature of Spain, commanding the Spanish officers at Orleans to deliver the province to the French Prefect, which he considered equal, perhaps superior to any deed of cession; for it was equal to an express recognition on the part of Spain, that France had performed all the conditions referred to in the Treaty of St. Ildefonso. It was an acknowledgment that Spain had no further claims upon Louisiana, and would show that any interference on her part ought to have no influence on the American Government.

The call for the correspondence between the Government of Spain and that of the United States, if there was any such, he should not assent to, as it could be of no possible importance. The acquiescence or the refusal of Spain, could have no weight on the question, whether we should take possession or not. Any interference on her part would be idle and extravagant. We might as well ask, whether the cession had received the approbation of Great Britain, of Russia, or even of the Dey of Algiers himself, for they each had as good a right to interpose as Spain had, either of them having full as good a title to Louisiana. To those parts of the resolution which pointed at the object he had mentioned, he should have no objection, but he never would consent to call on the Executive to say, whether Spain, Great Britain, or any other nation, was satisfied with a treaty made between the United States and the French Government.

MR. MITCHILL said he rose to express his sentiments against the whole body of the resolution under debate. But his disinclination to adopt it did not arise from any doubt of the right which the House possessed to call upon the Executive for information. He had no hesitation to ask the President for papers whenever it was necessary to obtain them. And it was equally clear to him that whenever that dignified officer was properly applied to, he would comply cheerfully with the request of Congress, or of either branch of it. He owned that in some cases it would be the duty of the House to pursue this mode of inquiry, and equally would it be the duty of the head of the Executive department to give his aid and countenance.

In the present stage of the proceedings respecting the Treaty and Conventions with France concerning Louisiana, he deemed it improper to embarrass the business by an unseasonable call upon the Executive for papers. The President had already communicated various information on this subject, in his Message on the first day of the session. Additional information was given in his Message of the 21st, wherein he told the House that the ratification and exchanges had been made. This was accompanied with instruments of cession and covenant concluded at Paris between our Ministers and the agents of the French Republic. All this information we had already on our tables. This the President had put the House in possession of from his own sense

of duty. This obligation was imposed on him by the Constitution, which declares that he shall, from time to time, give to Congress information of the state of the Union, and recommend to their consideration such measures as he shall judge necessary and expedient. Mr. M. said he had a firm belief that the President had complied with this Constitutional injunction. He had communicated such intelligence as he had received; and if he was possessed of anything else needful for the deliberation of the House, he was willing to think the Chief Magistrate of the Union would have spontaneously imparted it.

The gentleman from Connecticut (Mr. Griswold) however says, that the cession expressed in the treaty, is no cession at all, but a mere pretence. He says that our title is derived from France, who has no title whatever to Louisiana, and of course can convey none to the United States. He differed in opinion with that gentleman entirely. The treaty contained internal evidence enough for him to act upon. And it was accompanied with extrinsic events and circumstances of great publicity. The united evidence of these we could not resist without rejecting all human testimony, and sinking into absolute scepticism.

Let us review, sir, what the sum of this information amounts to. By the first article of the treaty which has so lately been laid before us, we have a recital of that part of the Treaty of St. Ildefonso, concluded October 1, 1800, whereby His Catholic Majesty promises and engages to cede to the French Republic the colony or province of Louisiana, with the same extent that it now has in the hands of Spain, and that it had when France possessed it, and such as it should be after the treaties subsequently entered into between Spain and other States. Here is a promise to cede; but the stipulation is accompanied with a condition which, as is alleged by the mover of the resolution, has never been performed. This condition, though not expressed at large in the first article, is well understood to be the establishment of the Duke of Parma in the full and entire possession of Tuscany, and the making him a monarch, under the title of the King of Etruria. This has been done in the face of all Europe. And the deliberations in the Diet of Ratisbon, concerning German indemnities, shows that the Prince, who was turned out of that country to make room for a younger member of the blood royal of Spain, was one of those who suffered a loss of dominion and revenue when Italy was borne down by the victorious arms of France. Mr. M. said he would not enter into the detail of European politics, nor dwell upon the splendid campaigns which had been made beyond the Alps. He would only urge upon the attention of the House, that France had put the Duke of Parma on the throne of Etruria, and had thereby acquired a title to Louisiana. This was the consideration or price with which the American province was purchased from Spain. But the right of France to Louisiana does not rest here—it is not a *nudum pactum*—so far from it, effective measures have been adopted to carry it

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into operation by adding possession to right. A Commissioner has been sent to New Orleans, on the part of the French Republic, to receive the province of Louisiana from Spain. This officer has been received respectfully there. He has been officially recognised, and has had solemn induction and investiture. He may be considered as completely in possession, and enjoying, as far as the treaty requires, actual seizin of the country. If even possession by twig and turf was required, the French Republic really seemed to have been permitted by the Government of Spain to have such a possessory establishment. A title thus acquired, and accompanied by an allowed and peaceful possession, is about to be granted to the United States. The provisions to the completion of this object are stated in the fourth article of the treaty, which stipulates that there shall be sent by France a commissary to Louisiana, to the end that he do every act necessary, as well to receive from the officers of His Catholic Majesty the said country and its dependencies, in the name of the French Republic, if it has not been already done, as to transmit it in the name of the French Republic to the commissary or agent of the United States.

An objection had been raised on the ground of the uncertainty of the limits of Louisiana. He did not feel the force of this. In the ignorance in which the world was at present involved as to American geography, we should indeed receive it *talis qualis*, such as it was generally understood or usually reputed to be. He perfectly well knew it had been very little explored, and far less travelled over by surveyors with chain and compass. Uncertainty overhung the subject; but this would be dissipated by degrees, as the unknown regions should be visited and described. We might then proceed to adjust the limits in a manner similar to that we had repeatedly adopted with respect to the present territory of the United States. As Commissioners had been from time to time appointed to settle our boundaries on the Southern, Northeastern, and Northwestern frontiers, so might every geographical difficulty as to the extent of Louisiana be removed by Commissioners acting under like authority and powers.

Previously, however, to receiving the perfect transfer and possession on our part, it is necessary that we should make arrangements to pay for it. For although, by the second article of the first convention, it is agreed that no money or stock shall be advanced before Louisiana shall be taken possession of in the name of the Government of the United States; yet, as no money can be paid but by virtue of appropriations made by law, it is incumbent on Congress forthwith to declare whether they will make appropriation or not. If this appropriation is not made by law, there is an end of the treaty, and of all the expectations to which it has given rise. On the other hand, if duly and promptly made, our Government will be enabled, according to the promise contained in the fifth article, to receive from the commissary of the French Republic all the military posts of New Orleans and other parts of the ceded territory, and to see the troops of France and Spain,

who may be there, withdraw from the country, and evacuate it. Mr. M. thought that Congress already possessed as much information as was requisite to act with wisdom and intelligence on the great question before them.

Acknowledging as he did the right of the House to request the President to give the copies of papers mentioned in the resolution under debate, his opposition to it arose merely from the persuasion he felt, that they were unnecessary, and some of them impossible to be had. Some papers were asked for, which he was confident did not exist in the hands of the President or anywhere else. It would be as agreeable to him, Mr. M. said, as to the mover of the resolution, to examine these papers as matters of rational curiosity, or as documents of authentic history. But now was not the time for these secondary researches, however amusing they might be. Graver subjects demanded our immediate attention, and there might be danger in delay. The operation of the resolution, if adopted, would certainly be to procrastinate and embarrass; and he did not discern what good would be wrought at that time by agreeing to it. There was an additional reason, and that a very weighty one, for refusing the motion at this time. By the treaty it must "be ratified in good and due form, and the ratifications exchanged within six months after execution." The date of this deed of cession is the 30th of April last; consequently the limited time would expire on the 30th of the current month. A doubt had been expressed by some gentlemen, for whose judgment he entertained the greatest respect, whether the ratification would be consummated in "good and due form," unless the declaration and act of this House should follow up the determination of the President and Senate. Mr. M. therefore concluded that, as there were but a few days left to decide on the question which involved the sovereignty of the Mississippi, and the adjacent country on both its banks, it would be better to proceed without delay to comply with all the pre-requisites. At a future day, he would have no objection to amuse his leisure with the perusal of the paper comprised in the resolution; but at present, he thought the members had neither inclination nor time to spare. Mr. M. therefore concluded by moving a postponement of the resolution until the 30th day of May next. The motion then being seconded,

Mr. FINDLEY said he was opposed to the postponement. He would rather face the resolution and decide upon it at once. If this House thinks it expedient, they will say so; if they think it inexpedient, they will manifest their opinion. He was one of those who considered the resolution as neither necessary nor expedient. It was not pretended that we yet had either territory or people to govern; but we were required to carry a treaty into effect that would give us both territory and people. Doubts had been suggested of the validity of our title; but shall doubts be put in competition with official papers? It was not, however, his intention to detain the House with a discussion of this point, on which sufficient had

been already said; but to notice an allusion made to the proceedings of a former Congress. It was proper that they should be correctly understood. When he looked around him he did not see more than eight or ten members of the House at the time referred to. It had been said by a gentleman from Massachusetts (Mr. THATCHER) that the House in the case of the British Treaty claimed to decide on treaties. In answer to this observation, he begged leave to read the reply of the House to the Message of the President; first observing that the contest was respecting the discretion of the House not to agree to treaties, but to grant money for carrying them into effect. On that occasion it had been contended there was no such discretion. The following are the proceedings on that occasion:

"The House, according to the order of the day, resolved itself into a Committee of the Whole House on the Message from the President of the United States assigning the reasons which forbid his compliance with the resolution of this House of the 24th ultimo, requesting a copy of the instructions, correspondence, and other documents, relative to the treaty lately concluded between the United States and Great Britain; and after some time spent therein, Mr. Speaker resumed the chair and Mr. Muhlenberg reported that the Committee had, according to order, again had the said Message under consideration and come to two resolutions thereupon, which he delivered in at the Clerk's table where the same was read; as follows:

"*Resolved*, That it being declared by the second section of the second article of the Constitution, 'That the President shall have power, by and with the advice and consent of the Senate, to make treaties, provided that two-thirds of the Senators present concur: The House of Representatives do not claim any agency in making treaties; but that when a treaty stipulates regulations on any of the subjects submitted by the Constitution to the power of Congress, it must depend for its execution as to such stipulations, on a law or laws to be passed by Congress; and it is the Constitutional right and duty of the House of Representatives, in all such cases, to deliberate on the expediency or in expediency of carrying such treaty into effect, and to determine and act thereon, as in their judgment may be most conducive to the public good."

This resolution was carried by a majority of 57 to 35. From this statement it was evident that the point at that day in dispute was not whether the House had a right to ratify treaties, but whether they had a right to grant money; that is, whether they had not the same discretion on this as on other occasions? Mr. FINLEY concluded by observing that he was himself prepared, with the information before them, to carry the present treaty into effect.

Mr. R. GRISWOLD scarcely believed the gentleman from New York (Mr. MITCHELL) serious in his motion to postpone this resolution. If it ever was proper to decide it, it was certainly proper to decide it now. If ever the information requested was wanted, it was for the purpose of legislating correctly on the subject of the Message. If it is not wanted, the House will not hesitate to negative the resolution. In my judgment, said Mr. G., it is wanted for the purpose of legislating cor-

rectly on those subjects that are before us. I am one of those who do now believe, and always have believed, that the exclusive right of forming treaties resides in the President and Senate; and that when ratified, it is the duty of every department of the Government to carry them into effect. This treaty then, if fairly and constitutionally made, is a law of the land, and we are bound to execute it. But it is necessary to know its nature and effects to carry it into execution. If it is a mere dead letter, there is no necessity for any laws whatever. Hence the necessity of knowing precisely its nature and effects, before we are able to pass the necessary laws for carrying it into effect. Gentlemen will not deny this. If the treaty itself is in these respects uncertain, they will admit the necessity of having recourse to other documents to decide what we are to do to carry it into effect. In my judgment the treaty is uncertain. I am not able to say from the light it supplies, whether we acquire by it new territory or subjects, or if the gentleman from Virginia pleases, new citizens; though I have always understood that all persons living under every description of Governments were bound to obey it, and of course were subjects, and that the term was as applicable to a Republic as to a Monarchy. Will gentlemen say that it is not necessary to ascertain the nature and effects of this treaty, in order to legislate correctly respecting it? What does the President say in his Message? He says, "It is for your consideration whether you will not forthwith make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country as the case may require." He calls upon us forthwith to legislate. If we have acquired the country and people, it is certainly proper to pass laws for the preservation of order and tranquillity; but if we have acquired neither, whence the necessity of passing such laws? It would be improper; it would be usurpation. We contend that the treaty does not ascertain these points; gentlemen differ from us in opinion. But I beg them calmly and seriously to attend to its language. By the first article it appears that Spain promised to cede Louisiana to France on certain stipulations. She *promises* to cede. Gentlemen cannot mistake the import of the language; it is a promise, not a cession. Will it be said that France acquired any title by this promise? This cannot be contended; the treaty does not declare whether the terms stipulated by France have been complied with, or whether the cession was actually made. The terms of the treaty are "whereas, in pursuance of the treaty, and particularly of the third article, the French Republic has an incontestable title," &c. Will gentlemen say that this assertion on the part of France gives her a title? It gives her no title. An assertion by France cannot affect Spain.

But, say gentlemen, France has stipulated the sending a commissary to receive Louisiana from Spain, and transmit it to us. What is the amount of this engagement? It is an engagement to receive and transmit. But suppose France does not send the commissary, or Spain refuses to deliver



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the country. If gentlemen are correct in the construction they give to the first article, to wit: that we have acquired a good title, will not the House hold the language of the gentleman from Maryland, (Mr. NICHOLSON,) and say, "what do we care for Spain?" I therefore consider the fourth article as amounting to nothing. This consideration enforces the motion I have had the honor to submit; because if it shall turn out that we have acquired a good title, and the treaty shall appear to be fairly and Constitutionally made and ratified, we have a right in virtue of every principle of the law of nations to enforce our title.

The President has called upon us forthwith to pass laws for the preservation of order and tranquillity in this Territory. Should we not then seriously inquire into the validity of our title? for we have no right to exercise jurisdiction over it if our title is not rightful. Suppose France had ceded to us the Island of Great Britain. Would the mere cession give us the right to the soil and jurisdiction of that country? Before we pass the laws that are alleged to be necessary, we ought to ascertain whether the people of Louisiana owe us allegiance as their rightful sovereigns.

Gentlemen say, though they are content to call for the Treaty of Ildefonso, there are other parts of the resolution to which they cannot assent, and particularly that which relates to Spain. In one view this information is important. If it shows the consent of Spain to the cession to us, it is equivalent to an abandonment, so far as relates to us, of the stipulations made to her by France, and all that remains for us to do is to organize a government over the people of that Territory. But if Spain refuse her consent, and remains in possession—and I always understood till this day that she does remain in possession—it may be necessary to resort to other measures. For that purpose I have thought it proper to call for papers that may ascertain the disposition of Spain. As to the expression "deed of cession," it may not, perhaps, be the most apt; and it will be perfectly agreeable to me to substitute the word "instrument," if that shall be more agreeable to gentlemen. I beg leave to add that with regard to all these documents, no doubt can be entertained of their being in the possession of the Executive. When realizing this important purchase, he certainly felt it important to know whether the nation selling had a right to sell; and that right must have depended upon the treaty of 1800. Let not gentleman ascribe to me the least wish to pry into the secrets of State. This measure cannot be fairly so construed. The Treaty of Ildefonso must be a public treaty from the nature of it. As to the correspondence with the Government of Spain, I should presume that that cannot be secret. But if the President will say that Spain has assented to or dissented from the treaty of cession, that will be sufficient for me. For these reasons I deem the adoption of the resolution at this time important, and that it is consequently improper to postpone it to a future day. I presume gentlemen are desirous to carry this treaty into effect without delay. I am not the least disposed to

frustrate their wishes; and when these documents shall be received, if gentlemen permit them to be received, we shall be enabled immediately to decide whether the treaty calls for any particular laws to carry it into execution.

Mr. RANDOLPH said, that when the gentleman from Connecticut introduced the resolution it struck him as being irregular, but as it had not received any animadversion from the Chair, and as he felt greatly disposed to favor the utmost latitude in debate, especially on the part of the other side of the House, he had offered no objection to the course which had been pursued; although it appeared to him that, this subject being in the possession of the Committee of the Whole House, it would have been more regular to have moved a previous discharge of that committee, or to have offered the resolution in that committee, by way of showing that it was not expedient to pass the necessary laws for carrying the treaty into effect. This was not the only case in which a question had been discussed on incidental points, rather than on its own merits. It had become almost habitual with the House to decide the principal questions before them, by debating others of a preliminary nature. He hoped therefore he should be excused in following the extensive but devious track of the gentlemen from Connecticut. He declared himself entirely at a loss how to reconcile the theory and practice of that gentleman. He confessed that he had rather have seen him come boldly forward and deny the propriety of carrying the treaty into effect, than fighting behind entrenchments which cramped his exertions, whilst they did not cover him from that charge of inconsistency against which he vainly endeavored to shield himself. Mr. R. regretted, therefore, that the gentleman had given any previous pledge which tended, at this time, to fetter his opposition to the treaty. He felt himself at a loss how to understand an expression which had been repeatedly and emphatically used—"if the treaty were constitutionally ratified." The Executive informs us that this instrument has received the sanction of the Senate, and yet the scepticism of gentlemen is so extreme, that they cannot argue from the fact, but put the case hypothetically. Do they suppose the ratification to have been informal and incomplete?

Mr. GRISWOLD explained. He said he would merely inform the gentleman what he had thought and intended to express, viz: that if the treaty be constitutionally made and ratified, that House was bound to carry it into effect.

Mr. RANDOLPH continued—"If it be Constitutionally made and ratified?" Really, sir, this is the age of ingenious distinction. Unfortunately I am too dull to comprehend how a treaty can be constitutionally ratified, which is not constitutionally made. If, however, it be constitutionally made and ratified, the gentleman acknowledges himself bound to carry it into effect; and yet he wants documents. To prove, what? That the treaty is Constitutional? to clear up doubts of this nature? Not at all; not to decide whether



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we have a treaty which contravenes the provisions of the Constitution, but to determine whether we have any treaty at all. We must first see whether we have acquired territory and inhabitants to govern before we can pass the necessary laws giving effect to the treaty; although, by the gentlemen's own showing, we must pass the laws for carrying the treaty into effect, (provided they do not violate the Constitution,) even if it should be found that we have acquired neither territory nor inhabitants. According to the gentleman's doctrine, we must make good the stipulations into which the Executive may have entered, in the name of the nation, whether we have acquired anything in return or not. To what purpose then is this inquiry made? But we are told that inquiry is necessary to enable us to ascertain the proper mode of effecting the desired end; to determine whether (as a gentleman from Massachusetts, Mr. THATCHER, has said) we shall march a body of soldiers, or civilians, to take possession of Louisiana. But was it necessary to determine the mode of taking possession, before they would resolve to take possession at all? If the House would previously decide this question—if they would come to a resolution that it was expedient to take possession, that resolution would be referred to a select committee to prepare a bill in conformity to it, and when that bill should be under their consideration, it would be proper to determine whether we would send soldiers, or civilians, to New Orleans. From the zeal which that gentleman and his friends had manifested on this subject, Mr. R. entertained no doubt of their willingness to serve in either capacity.

Gentlemen allow that they are bound to carry the treaty into effect, if consistent with the Constitution; but they say, that there may be, and are, dubious points, which must be cleared up, in order to enable them to understand how to carry it into effect. It would be strange indeed if there were not dubious expressions in this, as in almost all other treaties. For to what purpose are treaties generally made, but to define and settle the doubts of prior treaties, furnishing themselves matter for other negotiations, in an uninterrupted succession of cause and effect? Thus subsequent treaties have been made to settle the construction of the Treaty of Paris of 1783—and yet later conventions endeavor to destroy the ambiguity of these explanations. There never was a convention between nations to which this objection would not be urged. The Treaty of 1783 was so deficient in respect to the limits assigned the United States, that it could not be carried into execution, unless two straight lines can enclose space. This was the natural result of our then ignorance of the extent and direction of the great rivers and lakes, on the northeastern frontier. The treaty now before us may be presumed to be equally or more indefinite, as to the boundaries, than that of Paris—since the geography of the United States, at that time, was better understood than that of Louisiana is at this. But a new discovery is made. That whatever doubts may arise under the treaty in question, it belongs to the Executive to clear them up, and

for that purpose this application is proposed to be made. Mr. R. said that he had always understood, till now, that doubts arising on any compact between independent Powers were the proper subject of negotiation between those Powers. That in this way alone they could be resolved, and not by one of the parties undertaking to put his own construction on the question. To what purpose then apply to the Executive for a solution of doubts to which both the parties interested alone are competent, and which it belongs not to one of them to decide?

It is said that the Treaty of St. Ildefonso would enable us to ascertain whether France had complied with the stipulations in consideration of which Louisiana was ceded to her by Spain, and that probably it defines the boundaries of that country. With respect to the first object, even if it were in the power of the Executive to furnish us with a copy of that instrument, we should only learn, what we already know, that France engaged to raise a younger son of the Spanish branch of the House of Bourbon to the Etrurian throne. Suppose, sir, we were officially apprized of this fact; would that satisfy the gentleman from Connecticut? By no means. Whilst there is a possibility of doubt, he has told us honestly, he does not mean to be satisfied. No sir; you must summon a *venue* to establish the fact that the Duke of Parma has been elevated to the rank of Tuscan King, and obtain a verdict in his favor, before you prevail on the cautious jealousy of that gentleman to assent to the proposition. In regard to the limits of the country in question, it is well known that neither in that of St. Ildefonso, nor any other treaty, have they been accurately defined. Nor ought this to be a matter of surprise, since neither the Treaty of Paris in 1783, nor that of London in 1794, has fixed the boundaries of the United States, and in consequence, our northwestern line was still unclosed. If gentlemen wanted information on this subject, instead of sending this resolution to the President, they should send their doorkeeper into the library for Du Pratz, and Chalmers, and Jenkinson. They will find more concerning the extent of Louisiana in Louis XIV's grant to Crozat than in the treaty which they require, or in any other. By the Treaty of St. Ildefonso, Spain "cedes to France the province of 'Louisiana, with the same extent it now has in the 'hands of Spain, and that it had when France possessed it; and such as it should be after the treaties subsequently entered into between Spain and 'other States.'" The only article then of this treaty which concerns us, is quoted in that which is now in our possession. To establish what was the extent of the country when France possessed it, will doubtless form—perhaps now forms—the subject of negotiation with Spain. If, then, the precision which the gentleman requires be insisted on, the assent of this House may be refused to the laws for carrying the treaty into effect, until a complete adjustment of our boundary shall have taken place with Spain; and inasmuch as this can never be effected until these laws are passed, and possession thereby taken of the country, the gentleman will

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obtain a perpetual virtual adjournment of this question. Availing himself of this newly discovered distinction, whilst he acknowledges an indispensable political obligation to carry treaties into effect, he may refuse his sanction to any particular treaty. It is only to discover some real or apparent obscurity, should no Constitutional objections present themselves, and the business is done. The gentleman thus surmounts, or gets around his own doctrine, and opposes a treaty as effectively as if he had never supported the position that this House was bound to execute them. But it requires all the intrepidity of the gentleman from Connecticut to assert his consistency. What do we now propose? Only to submit to the House the bare abstract proposition that it is expedient to pass the laws for carrying this treaty into effect. We propose no particular measure; no matter of detail is before us; we are not debating whether we shall employ soldiers or civilians; and yet the gentleman, while he acknowledges an obligation to carry treaties Constitutionally made, into effect, whilst he urges no Constitutional objection in this case, refuses his assent to the general position of the expediency of passing the laws necessary to give effect to the treaty in question, on the ground of difficulty, or hazard to the United States; in other words, on the ground of inexpediency. The House will perceive how greatly the gentleman must be embarrassed, when he is driven to such glaring inconsistency; when he is compelled to compound the question, whether the treaty ought to be carried into effect? with one entirely different; the manner in which that effect is to be attained?

But, says another gentlemen from the same quarter of the Union, to whose reputation for ingenuity, although it has been reputed by a gentleman from Vermont, Mr. R. could not subscribe, Spain may have a right which she dare not now assert, since she trembles at the nod of the First Consul, but which, hereafter, she may reclaim, and unless you procure her formal relinquishment of that right, you cannot stand on safe ground. Twenty years hence she may demand Louisiana at your hands, and wrest it from you, as it has been wrested from her, by force. Mr. R. said, that, with some variation of terms, this was the same monstrous opinion which had been urged against every proposition for peace between England and France: because at some undefined future period, events may take place which are beyond the control of human prudence, we are now called upon to act, not upon the existing state of things, but upon a possible future state of existence, which speculative minds have chosen to imagine. But how are we to reconcile this reluctant caution to the doctrine of forcible possession, so lately inculcated by gentlemen? At one time it was necessary to possess ourselves of the key of the Mississippi, on any terms, and in any way. There was no waiting to examine into the title of other nations, or scarcely into our own. The Mississippi must be had at every hazard, and in any mode. Now that it was offered to us, gentlemen can devise no mode of getting it. They are

so embarrassed with forms, which sometime past were held as nothing, that the value of the Mississippi, which was held as everything, has sunk in their estimation. That Mississippi, for whose acquisition the nation was to be precipitated at once into war, is now of so little consequence that the most trivial form outweighs it in their estimation.

Mr. RANDOLPH said, that he expected to have seen those gentlemen foremost in zeal for taking possession of the country in question, and so far from throwing impediments in the way, that in case Spain manifested any opposition to the step, they would have been the first to originate measures for compelling her assent. This would have been consistent. He treated the idea of future reclamation by Spain as futile in the extreme. If, however, gentlemen were disposed to examine into the question of the extent of Louisiana, instead of the treaty of St. Ildefonso, they must look elsewhere for its history—from the first settlement of La Salle to its surrender in 1736, to Spain and Great Britain. The only clause of the Treaty of St. Ildefonso which affects this subject, is now in the possession of the House. With them it rests to determine whether we will accept it, as there described, and upon the conditions stipulated. After we shall have resolved to accept it, it will be incumbent on every gentleman to devise the best means for securing our possession. At that stage of the subject, said Mr. R. it will be proper for gentlemen to descant upon the state of our relations with Spain, to demonstrate the danger of opposition from that quarter, and to devise the means of surmounting it. But on the plain abstract question, whether we would accept the country or not, all these observations were premature. He hoped, therefore, that having acquired Louisiana, as possessed by Spain, and as it was held by France, the House would pass the laws for enabling the Executive to give effect to the contract, and he should vote against the resolution, as tending to embarrass a question which he wished to see decided, and as lengthening a discussion which he hoped would be terminated before they rose.

Mr. GODDARD remarked that though the gentleman from Virginia (Mr. RANDOLPH) had not pleased to compliment him on the score of ingenuity, yet he had replied copiously to his remarks; and this, he presumed, he would have spared himself the trouble of doing, had he not considered those remarks entitled to his notice. The gentleman asks, what has become of the hostile sentiments of his political friends? Mr. G. did not understand exactly to what he alluded. He and his political friends had seen the time when they thought the essential rights of their country invaded. Then it was that they were disposed by vigorous measures to assert them, and to them it was indifferent whether these rights were violated in Virginia or on the banks of the Mississippi. But where will it appear that they proposed to acquire Louisiana by force? Was it proposed during the last session to acquire this country by warlike measures? The project of acquiring that

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extensive territory by force or by other means was entirely novel. Did we then ever hear of passing the banks of the Mississippi? Did we then hear a proposition to acquire this vast territory by war? No gentleman had ever heard this. It may have been said, if our rights are invaded, it is our duty to put ourselves in a situation to defend them. But was that war? Let me then, said Mr. G., ask with what justice gentlemen charge us with having had a disposition to go to war with France or Spain? The war-whoop has been sounded, and we have been charged with wishing to embroil our country in war. But the charge is injurious. Then, and now, we feel disposed to repel the unjust aggressions of Spain and France on our rights. We then were in favor of vigorous measures to repel them, and we are still in favor of the same measures, should our rights be again invaded. But because we were for exerting proper and efficient means of securing those rights invaded at New Orleans, are we to be told that it is our duty *per fas et nefas* to take it? If so let us have it one way or the other—either by war or by purchase; and if in the latter way, do not let us obtain it in such a manner as shall compel us to resort to war. The object is certainly of great importance, and we ought to make great sacrifices to obtain it by peaceable means, but when acquired by these means, at a great sacrifice of treasure, let us avoid laying the foundation for future wars.

The gentlemen have resorted to peculiar grounds to show our right to this Territory; they have resorted to verbal information. The gentlemen say the cession to France is well known to all Europe. Suppose I say I am not willing to rely on such general information, and that not being so learned as they, I have not obtained this information. But the gentleman from Virginia refers to the Treaty of St. Ildefonso, and he informs us that the treaty will not afford us the information we wish. The gentleman may have access to the Cabinet, but I belong to an humble and unlearned minority. The majority of this House, who may be acquainted with its contents, may say to us "you must act in the dark, it is sufficient that we have seen it." For my part, although disposed to pay great deference to the learning of the gentlemen from New York and Virginia, yet as a Representative of the American people, called upon to legislate on objects of vast interest, I consider myself entitled to correct information, and that I ought not, instead of receiving this information, be referred to newspaper statements.

But, say gentlemen, it is unnecessary to be acquainted with the facts we ask for, and the gentleman from Virginia has referred to my observation, that, though Spain may not now oppose the execution of our Treaty with France, yet the time may arise when she will call upon us to prove the validity of our title. All I meant was, that if Spain considers herself entitled to Louisiana, though she may not, under the pressure of present circumstances, oppose our taking possession of it, yet if, by a revolution in European politics, she shall retrieve her national character, and demand of us by what right we hold this terri-

tory, what answer shall we make? We may say it is ours by Treaty with France; but suppose it shall then appear that the possession by France was mere usurpation, would we under such circumstances enter into a contest with Spain for it? She might have yielded under the pressure of imperious circumstances to the giving it up, without any justice in the measure. I would wish to avoid in this business all seeds of war; and is it, in this point of light, of no importance to learn whether or not France has a good title? Are we to be satisfied with the mere declaration of France to this effect? Suppose we pay France the fifteen millions, and Spain afterwards demands the territory, and we call on France to refund the money—France will assuredly say, you made the purchase with your eyes open, we recited to you the title under which we ceded the territory, and you accepted it at your peril. I apprehend, therefore, that it becomes important to inquire, not whether the treaty has been made according to the forms of the Constitution, but whether Spain has actually ceded Louisiana to France, and whether Spain assents or dissents from the cession. If she assents, it may be inferred that France has perfected her engagements; and if she does not assent, that she has failed to comply with them.

With regard to the precedent in the case of the British Treaty, appealed to on the other side, we may say, if correct on that occasion, it is likewise correct on this occasion. You called for papers then, and we call for them now. But I conceive there is no analogy between the cases. For how does our call affect or impugn the treaty-making power of the President and Senate?

I apprehend that to postpone this motion is to negative it. We call for information. Gentlemen say act first, and we will then give it to you. Need gentlemen be again told that we do not make the demand through a blind curiosity, but because we deem it absolutely necessary to know whether the title is in us before we pass the laws to carry the treaty into effect?

MR. ELLIOT.—Mr. Speaker, as I have not spoken on the question of postponement, and although my views of the subject are almost exactly the same with those of the gentleman from New York who made the motion, yet as I shall vote against the motion, and as I wish to appear consistent in my conduct, I am under the necessity of again asking the indulgence of the House for a few moments; it shall be but for a few moments only. When I was up before, I mentioned that I had other objections to the resolution than merely its prematurity, but that I did not think it necessary to state them. Those objections, in part, have since fallen from a gentleman from Kentucky, (Mr. LYON;) they apply to the form of the resolution; to the propriety and decorousness of its expression. It struck me at first, it still strikes me, as improper and indecorous towards the President. I have no idea that such was the intention of the gentleman from Connecticut, for I know, at least I believe, that he is a gentleman of honorable feelings, and utterly incapable of anything of that nature; but such was the impression on my mind, and I can-

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not remove it. I am therefore for an absolute rejection of every part of the resolution; I cannot vote even for a postponement.

I hope I shall not be considered as guilty of very great vanity in observing that my objections to the resolution as being premature have not been directly answered by gentlemen on the other side of the House. It is said the treaty may not have been constitutionally made. This must be determined from the face of the treaty itself, and not from any of those extraneous considerations which gentlemen are laboring to connect with it. The view taken of the subject by the gentleman from Virginia is certainly the only correct one. Let us first decide whether we will impart our Constitutional agency to carry the treaty into operation, and when we consider ourselves as having acquired the territory and its inhabitants, proceed to legislate accordingly. I shall not deny that, presuming upon the good faith of the French Government, and of course that we shall obtain the possession according to the laws of nations, we may immediately proceed to pass such laws as may be necessary in that event. But of this subject the President and ourselves have the same views.

He speaks of "ulterior provisions," and of "temporary provisions." With reference to these provisions alone the gentleman from Connecticut moves his resolution, and on this subject alone wishes for information. The President says:

"As permanent arrangements for this object may require time and deliberation, it is for your consideration whether you will not forthwith make such temporary provisions for the preservation, in the meanwhile, of order and tranquillity in the country, as the case may require."

And he tells us that such information on the subject as he has been able to collect shall be laid before us in a few days, or as soon as the subject shall be in a state for our consideration. I am willing to take him at his word, and when we arrive at such a stage of the business as to render that information desirable, if the President is forgetful of us, I shall be ready to call upon him for a fulfilment of his promise.

Mr. MITCHELL withdrew his motion of postponement. He had made it, he said, to save time, but as the time he hoped to have saved was already consumed, he would waive it. The gentleman from Connecticut declares his disposition to carry the treaty into effect by all necessary measures, without delay. To accommodate him he would withdraw his motion.

Mr. GRISWOLD, but for one idea thrown out, should not again ask the indulgence of the House. The gentleman from Virginia (Mr. RANDOLPH) observes, that when we shall go into Committee of the Whole, we shall have but one resolution before us, to wit:

*Resolved*, That provision ought to be made for carrying into effect the treaty and convention concluded at Paris on the 13th of April, 1803, between the United States of America and the French Republic.

And that in debating on this resolution there will be no necessity for the documents, which it

is the object of the resolution to obtain. There would be weight in this observation, but for the circumstance that it is competent for any gentleman in committee to move any resolution connected with the subject. It was competent to move that this or that article should be carried into effect; for the provision of a military force to take possession of New Orleans; for the appointment by the President of governor or judges. The gentleman has admitted that these documents may be useful when we go into the details of the subject. If so, they certainly will be useful when we shall be in Committee of the Whole. Besides, if it be proper to agree to the general resolution, it would be absurd to agree to it unless previously satisfied that some laws are necessary. If the United States have no right to govern the province, it is absurd to say that it is expedient to make provision by law for governing it. And unless gentlemen can show this or that law to be necessary, we ought not to agree to the general proposition. The argument, therefore, of the gentleman from Virginia is entitled to no weight.

Mr. RANDOLPH would not have trespassed further on the patience of the House had he not been called on personally by the gentleman from Connecticut (Mr. GODDARD.) He was sorry that whilst bearing testimony to the ingenuity of the gentleman's colleague on his left (Mr. GRISWOLD) he had been unable to include the gentleman himself in the description; on all other subjects he should be ready to acknowledge the gentleman's ingenuity, but on this he must be excused from subscribing to the opinion of the gentleman from Vermont. Candor forbade it. He regretted that the gentleman from Connecticut had felt this exclusion so deeply, and could he have foreseen it, Mr. R. would have endeavored to conceal the impression which the gentleman's display had made upon him.

The gentleman asks, when did he or his friends evince a disposition to acquire territory west of the Mississippi? Mr. R. said he must have been misunderstood if his position had been taken with such latitude; but the gentleman immediately corrects himself by asking when was a disposition for hostility with Spain manifested by any description of persons in that House? If his memory did not deceive him, gentlemen had that day declared that the interruption of the navigation of the Mississippi justified warlike measures on our part. If, then, to acquire the navigation of the river, with the bare right of deposit, would have justified hostility, surely the acquisition of the island of New Orleans and both banks of the river, giving a perfect security to our navigation, and the entire, uninterrupted control of the river, would have justified an appeal to arms—unless the unlucky ingenuity of the gentleman from Connecticut would undertake to prove that a part was less than the whole, and that although the attaining of a qualified and precarious right to a given object furnished good cause for war, yet to acquire an unqualified and secure right to the same object would not justify hostility. Surely, it is not meant to insinuate that all which was heard on this sub-

ject last winter was mere clamor, and that notwithstanding the war-speeches of the day, war was never contemplated by those who delivered them. If, then, the obtaining of the free navigation of the Mississippi was good cause of war, surely the obtaining that which was essential to the unfettered exercise of this right, (New Orleans,) which, in other words, is the right itself, would have justified hostility; but we have not only obtained the command of the mouth of the Mississippi, but of the Mobile, with its widely extended branches; and there is not now a single stream of note, rising within the United States, and falling into the Gulf of Mexico, which is not entirely our own, the Apalachicola excepted. To these acquisitions are added the extensive region west of the Mississippi and northeast of New Mexico. If the possession of the right of deposit there, or the island of New Orleans, a part of this acquisition, would have justified hostility, is the importance of this part lessened by having the whole added to it?

The gentleman had complimented his learned friend from New York, (for so he must insist upon calling him,) and had been liberal enough to include him also, on their very great learning. Mr. R. acknowledged himself altogether unworthy of the honor of this association; and lamented his inability to return the compliment, but at an expense of sincerity and truth, which even the gentleman from Connecticut, he hoped, would be unwilling to require. The gentleman says, that we must have seen the Treaty of St. Ildefonso, because we have undertaken to say what it does not contain. This may be logic in some schools, but surely it does not deserve, in this House, so respectable an epithet. Might we not declare, without having seen it, that this treaty does not contain the Declaration of American Independence? It is insinuated that certain gentlemen possess avenues to information, which are closed to another description of members of this House. Although he did not mean to attempt to satisfy the jealous spirit which had so frequently manifested itself in surmises of this sort, yet, Mr. R. said, he had access to no information but such as it was in the power of every gentleman to obtain. Without having seen the Treaty of St. Ildefonso, (although he had seen as much of it, he believed, as the Executive, from whom gentlemen require a copy of the instrument; that is to say, the extract from it, contained in our treaty with France,) he would undertake to affirm, that it did not accurately define the limits of Louisiana. And the House would perceive that he hazarded little by this assertion. Being apprized that the boundaries of this country were not specially described in any previous convention, whether of a general nature, as the Peace of 1783, the Treaty of Paris, in 1763, of Aix-la-Chapelle, or any other pacification of Europe of an anterior date to the Peace of Ryswick, in 1697, which was posterior to the settlement of the country by France, or in any particular convention between France and Spain; that of 1762 conveying Louisiana to this last Power; the family compact, or any other known

stipulation between the parties; he could not fail to know that, unless an accurate description of the boundaries in question was contained in the Treaty of St. Ildefonso, it must be sought for in documents of another sort. Now, that article of this treaty which describes the extent and limits of Louisiana, is contained in the treaty before us. Here Mr. R. read the extract, and asked if it were possible that the Treaty of St. Ildefonso could contain a description of Louisiana by certain specific boundaries, when it was described by that treaty in such language? Had certain limits been agreed upon, would not the treaty have described those limits? Would it not have resorted to those rivers, highlands, parallels of latitude, or degrees of longitude, had such been laid down, instead of the definition which had been given? "Such as it was possessed by France, such as it then was in the possession of Spain, and such as it ought to be in consequence of subsequent treaties." The treaty between the United States and France, in describing the country ceded to us, having quoted the description of it contained in the Treaty of St. Ildefonso, are we not warranted in concluding that the Treaty of St. Ildefonso contains no other more definite description of the country? Is not the inference irresistible, that, had it contained such a definition, by that definition it would have been ceded to us? The gentleman from Connecticut would therefore perceive that, without information other than that which is accessible to every man, it was not difficult to ascertain the fact in question. As to the Treaty of St. Ildefonso, he professed an entire ignorance of it, the extract in question excepted. He had always understood it to have been a secret treaty. He left the House to judge how far, under these circumstances, he had erred in refusing his sanction to the character of ingenuity and learning with which, on this occasion, the gentleman had been complimented by the member from Vermont.

Gentlemen profess a wish to debate the merits of the treaty, and yet all their arguments go to show that it is an illusive bargain, a ruinous contract; and, so far, are applicable only to the question, "Ought the laws to be passed for carrying it into effect?" The gentleman from Connecticut (Mr. GODDARD) relied much on a very singular argument, the future reclamation of this country by Spain. She may, indeed, truckle now to the will of the First Consul, but hereafter she may be in a condition to assert her rights. He was at a loss to know in what language a Minister of Spain would demand the possession of a country, occupied for years by the United States, under a solemn and public treaty with France, to which Spain shall have given her tacit acquiescence, against which she shall have entered no protest or remonstrance. He had not as much difficulty to conceive the answer that would be returned her by some millions of citizens of the United States, seated on and near the lands in question, in case her application carried anything of hostility along with it.

Whilst he was up—and he would not have risen but for the satisfaction of the gentleman from

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Connecticut, he would notice an observation of his colleague (Mr. GRISWOLD) that, although on the mere abstract question, whether the treaty ought to be carried into effect, information as to the mode of doing it was necessary; yet, as every gentleman would be free to move in the Committee of the Whole, specific propositions, it was proper, to enable the House to judge of those propositions, that this information should be previously possessed by them. But, surely, the House may believe it expedient to pass these laws without having any idea of the skeletons of the particular bills. When these specific propositions shall have been made, they will go to particular committees, who will obtain of the proper departments the necessary information—of these committees the gentlemen and his friends will be members. So much of the treaty as touches the appropriation of money, on our part, will go, of course, to the Financial Committee, of which the gentleman has long and deservedly been a member. Other propositions will be submitted to other committees. If the bills which they present are, in the opinion of gentlemen, inefficient, they will have it in their power to show it; to demonstrate the hostility of Spain, and to bring forward other measures better calculated to insure the desired effect.

Mr. R. apologized for his long and repeated intrusion on the House, which the personal application of the gentleman from Connecticut had produced, and he hoped justified, and thanked them for their polite and patient attention.

Mr. NICHOLSON said he should vote for the first part of the resolution, as well as for that part which related to the order by Spain for the delivery. Though it might not be in the power of the Executive to show that the stipulations made by France had been complied with, yet it would be in their power to show an order for the delivery to the French, under the sign manual of His Catholic Majesty, and this would be conclusive evidence of the title of France.

Mr. ELLIOT.—I must again ask the attention of the House to a very few observations. Whatever may be said of newspaper information, there are occasions when we must be governed by it, when we can obtain no other. I am very confident, and I believe every member of this House believes, that the Treaty of St. Ildefonso, of the first of October, 1800, between the First Consul of the French Republic and His Catholic Majesty, was a secret treaty. I believe it never has been published. If it has been, every editor of a newspaper in the United States, every person in the habit of reading, may be supposed to have access to it, equally with the President. There is the greatest probability, however, that neither the First Consul nor His Catholic Majesty could, at this day, publish that treaty without being guilty of a breach of faith, and that, if the President possesses it, it has been confidentially communicated to him. Whether it be a secret or a public treaty, we have no right to take it for granted, as contemplated by the resolution, that it is in the possession of the President; and we have no right to require it from him.

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I am disposed to do perfect justice to the pure intentions, the candid views of the gentleman from Maryland (Mr. NICHOLSON) in relation to this subject. He may be able to justify himself for voting in favor of that resolution, but I cannot. I conceive it would be highly improper.

The question was taken on agreeing to the first member of the resolution, as follows:

*Resolved*, That the President of the United States be requested to cause to be laid before this House a copy of the treaty between the French Republic and Spain, of the 1st of October, 1800.

The House divided—ayes 59, noes 59. The Speaker declaring himself in the affirmative, the motion was carried.

Mr. RODNEY suggested an alteration in the second member of the resolution, so as to read "instrument," instead of "deed."

Mr. GRISWOLD had no objection to the modification.

The second member, so modified, was read as follows:

"Together with a copy of the instrument of cession from Spain, executed in pursuance of the same treaty conveying Louisiana to France, (if any such instrument exists.)"

Mr. HUGER confessed his impressions to be favorable to the treaty, though the arguments urged that day, certainly possessed great weight. He was rather of opinion that no such instrument, as that referred to in the resolution, existed. But if it did exist, its publication would certainly be satisfactory to the people and the House. He declared himself ready to vote for carrying the treaty into effect.

Mr. NICHOLSON did not know whether his remarks had been correctly understood. He did not know whether the document he alluded to could strictly be called the instrument of cession. He had drawn an amendment to this part of the resolution, which he would propose, if in order, to wit:

"Or other instrument showing that the Spanish Government had ordered the province of Louisiana to be delivered to France."

The SPEAKER said, the House having agreed to insert the word "instrument," it was not in order to receive a substitute.

Mr. HUGER moved to reconsider the vote of the House in favor of the insertion of the word "instrument."

Motion lost—ayes 24.

The question was then taken on the second member, as above stated, and lost—ayes 34.

The question was then taken on the third member, viz:

"Also, copies of such correspondence between the Government of the United States and the Government or Minister of Spain, (if any such correspondence has taken place,) as will show the assent or dissent of Spain to the purchase of Louisiana by the United States."

And lost—ayes 34.

The question was then taken on the last member of the motion, and lost, without a division, viz:

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"Together with copies of such other documents as may be in the Department of State, or any other department of this Government, tending to ascertain whether the United States have, in fact, acquired any title to the province of Louisiana by the treaties with France of the 30th of April, 1803.

The question recurring on the whole of the resolution, as amended,

Mr. NICHOLSON moved to amend the second member by adding to the end thereof:

"Together with a copy of any instrument in possession of the Executive, showing that the Spanish Government has ordered the province of Louisiana to be delivered to the Commissary or other agent of the French Government."

Agreed to—ayes 64.

The question was then taken by yeas and nays on the whole of the original motion, amended as follows:

"Resolved, That the President of the United States be requested to cause to be laid before the House, a copy of the treaty between the French Republic and Spain, of the 1st October, 1800, together with a copy of any instrument in possession of the Executive, showing that the Spanish Government has ordered the province of Louisiana to be delivered to the Commissary or other agent of the French Government."

And lost—yeas 57, nays 59, as follows:

YEAS—John Archer, William Blackledge, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Matthew Clay, John Clopton, Samuel W. Dana, John Davenport, Thomas Dwight, John Earle, Peter Early, Calvin Goddard, Peterson Goodwyn, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, Daniel Heister, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, Walter Jones, William Kennedy, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Matthew Lyon, William McCreary, Nahum Mitchell, Nicholas R. Moore, Joseph H. Nicholson, Thomas Plater, Samuel D. Purviance, Jacob Richards, Cæsar A. Rodney, Erastus Root, Joshua Sands, John Cotton Smith, John Smith of New York, John Smith of Virginia, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, John Trigg, Joseph B. Varnum, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, Joseph Winston, and Thomas Wynn.

NAYS—Willis Alston, junior, Nathaniel Alexander, Isaac Anderson, David Bard, George Michael Bedinger, John Boyle, Robert Brown, William Butler, Geo. W. Campbell, Levi Casey, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, James Elliot, John W. Eppes, William Eustis, William Findlay, John Fowler, Edwin Gray, Andrew Gregg, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, James Holland, John G. Jackson, Nehemiah Knight, Michael Leib, John B. C. Lucas, Andrew McCord, David Meriwether, Samuel L. Mitchell, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, Richard Stanford, Joseph Stanton, John Stewart, Philip Van Cortlandt, Isaac Van Horne, Daniel C. Ver-

planck, Matthew Walton, John Whitehill, and Richard Winn.

#### AMENDMENT TO THE CONSTITUTION.

The House resolved itself into a Committee of the Whole on the report of a select committee on propositions of amendment to the Constitution.

The report was read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the different States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid to all intents and purposes as a part of the said Constitution, viz:*

"In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President, of whom one at least shall not be an inhabitant of the same State with themselves. The person having a majority of all the Electors for President shall be the President; and if there shall be no such majority, the President shall be chosen from the highest numbers, not exceeding three, on the list for President, by the House of Representatives, in the manner directed by the Constitution. The person having the greatest number of votes as Vice President shall be the Vice President, and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution."

Mr. DAWSON observed, that at the time of the adoption of the Constitution, that part of it which related to the election of a President and Vice President had been objected to; and evils likely to occur had been foreseen by some gentlemen at that day. Experience had shown that they were not mistaken. Every gentleman in that House knew the situation in which the country had been placed by the controverted election of a Chief Magistrate; it was one which he trusted never would return. It had been a subject much reflected on by the people, and by the State Legislatures, several of which had declared their approbation of the principle contained in the resolution reported by the committee. This House had two years since ratified a similar amendment by a Constitutional majority of two-thirds. At that time no objections were made to the principle of the amendment. All the objection then made was on account of the lateness of the day and thinness of the House. Mr. D. considered it unnecessary to make any further remarks at that time, as he could not anticipate any objections that might be urged. He moved that the Committee should rise and report the resolution without amendment.

Mr. J. CLAY, though in favor of the principle of the amendment, was of opinion that, as to some of its parts, it required alteration. He therefore moved

"But if no person have such majority, then the House of Representatives shall immediately proceed to



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choose by ballot from the two persons having the greatest number of votes, one of them for President; or if there be three or more persons having an equal number of votes, then the House of Representatives shall in like manner, from the persons having such equality of votes, choose the President; or if there be one person having a greater number of votes—not being a majority of the whole number of Electors appointed—than any other person, and two or more persons who have an equal number of votes one with the other, then the House of Representatives shall in like manner, from among such persons having the greater number of votes and such other persons having an equality of votes, choose the President.”

Mr. VAN CORTLANDT thought the amendment liable to objection.

Mr. G. W. CAMPBELL was in favor of the principle contained in the amendment. He considered to be the duty of this House, in introducing an amendment to the Constitution on this point, to secure to the people the benefits of choosing the President, so as to prevent a contravention of their will as expressed by Electors chosen by them; resorting to Legislative interposition only in extraordinary cases: and when this should be rendered necessary, so guarding the exercise of Legislative power, that those only should be capable of Legislative election who possessed a strong evidence of enjoying the confidence of the people. This was the true spirit and principle of the Constitution, whose object was, through the several organs of the Government, faithfully to express the public opinion. For this reason he was in favor of the proposed amendment. By it we shall make a less innovation on the spirit of the Constitution than by rejecting it, and adopting the report of the select committee. There were obvious reasons why the persons from whom a choice may be made should be fewer in case of a designation of the office than heretofore. At present the whole number of electoral votes is one hundred and seventy-six. As the Constitution now stands, four candidates might have an equal number of votes, or three might have a majority, viz: one hundred and seventeen each. According to the proposed amendment, but one can have a majority, and if two persons should be equal and highest, it is not probable that the third candidate will have many votes.

Mr. GRISWOLD said it was very difficult to ascertain the precise import of the amendment offered by the gentleman from Pennsylvania by barely hearing it read from the Chair. In the meaning therefore which he gave it, he might perhaps be mistaken. If not mistaken, it involved a principle and implied a change, which he had never before heard suggested on that floor, or in the part of the country from which he came. It is well known to every member, that under the Constitution as it at present stands, the votes given for a President in this House are by States, and not according to the majority of the members of the whole body. The amendment, as reported by the select committee, preserves this original feature of the Constitution by prescribing that the election shall be proceeded with as pointed out by

the Constitution. But the present amendment varies this mode, according to which it is to be made without respect to States. Of course a majority of the members are to decide. He submitted it to gentlemen whether they were willing in this way to sacrifice the interests and rights of the smaller States. If this be the intention of gentlemen, we ought to have time to deliberate on the subject before it is pressed to a decision. The gentleman from Pennsylvania will explain whether this is his intention.

Mr. J. CLAY begged leave explicitly to state, for the satisfaction of the gentleman from Connecticut, that it was not his intention to change that part of the Constitution which prescribed that the votes should be by States; and if it would induce the gentleman to vote for the resolution he had moved, he would add the words of the Constitution, viz:

“But in choosing the President the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice.”

These words were accordingly added.

Mr. DAWSON observed that this proposition had been submitted to the select committee, who had considered it more objectionable than that reported. Their object was to innovate as little as possible on the Constitution. A great part of it referred to cases so extremely remote as were not likely to happen. The only material change it made was to reduce the number of persons from whom a choice should be made from three to two. At present the election for a President and Vice President was made from the five highest on the list. As, according to the proposed amendment, a designation of the persons voted for as President and Vice President was to be made, it was considered that by giving the three highest to the House of Representatives, from which to choose a President, and the two highest to the Senate, from which to choose a Vice President, the spirit of the Constitution would not be changed. He hoped therefore the report of the committee would be agreed to. He believed it comprehended all cases which were probable; and he further believed that if they spent a month they would not devise an amendment that would provide for all possible cases that may happen.

Mr. CLORTON said he rose to express his approbation of the amendment offered by the gentleman from Pennsylvania (Mr. CLAY.) He said that indeed the amendment could not but be acceptable to him, inasmuch as it corresponded with the ideas he had the honor to express to the Committee on this subject the other day. He begged leave now to make a few remarks in addition to those which he had then stated. He said, if anything is to be lamented as a defect in the fundamental principles of our Government, that defect perhaps consists in a departure from the plain and simple modes of immediate election by the people as to some of the branches of the Government. He did not mean however now to discuss,

nor did he know that he ever should discuss, this point. The Constitution of the United States having established a different principle in respect to the election of the several departments of the Government, except that branch of the Legislature which this House composes; and the object of the proposed amendment to the Constitution not being the transmutation of a fundamental principle, but merely an alteration in the mode heretofore directed of electing one branch of the Government according to the principle already established, his business and his object was to state to this Committee those ideas which occurred to him on this occasion as suited to the subject as it now stands before the Committee.

When the framers of this Constitution, said Mr. C., submitted it to the consideration of the people of the several States, drawn as it is, directing the election of President and Vice President to be made through the medium of Electors chosen by the people for that purpose, never could it have been their intention in submitting, or the intention of the people in accepting the Constitution, to admit a principle that any eventual Legislative election would be proper, if the object of it did not bear the stamp of public confidence. They never could have abandoned that great political consideration that the people, as the primary source of all power, should first give to those particular citizens, among whom such Legislative choice might be made, the evidence of a very considerable share of their confidence. The Electors are the organs, who, acting from a certain and unquestioned knowledge of the choice of the people, by whom they themselves were appointed, and under immediate responsibility to them, select and announce those particular citizens, and affix to them by their votes an evidence of the degree of public confidence which is bestowed upon them. The adoption of this medium, through which the election should be made, in preference to the mode of immediate election by the people, was no abandonment of the great principle, that the appointment of the constituted authorities ought to be conformable to the public will. It was no abandonment of that principle in respect to the President and Vice President. The adoption of this medium in the first resort, and the adoption of this alternative of a Legislative election in the last resort, were not intended as disparagements to the energy of that principle—were not intended to operate any diminution of its force. The spirit, the genius of the Government, is the same. The same principle was intended to influence its operations; the same principle was intended to influence its elections, although in a different form and after a different manner. It is a great characteristic feature of the Government. It is a primary, essential, and distinguishing attribute of the Government, that the will of the people should be done; and that the elections should be according to the will of the people.

Mr. C. said that most seriously considering the principles of the Government in such a point of view as he had the honor to state to the Commit-

tee, he was irresistibly impressed with the opinion that a Legislative election of President or Vice President, whenever resorted to, should be restrained to the smallest number above an unit, or to those persons who have equal electoral votes. He considered it as a position clearly and unquestionably true, that if the field of election, when not decided by the voice of the people themselves, should be left too wide, more chances will there always be for the introduction of abuses in determining on a choice, if those whose province it shall be to decide, should be actuated by a spirit adverse to the public sentiment. Results ungrateful to the public feeling might indeed become sources of discontent truly to be lamented. The demon of discord might be called forth, and stalking over our land, might unfortunately produce a state of things very different from that peaceful, tranquil state, which would follow a decision more conformable to the will of the people. Such a decision he believed would be insured were the election to be confined to those two persons only who had received the most ample testimony of the public confidence, or to those who had been stamped with equal testimonials of that confidence.

For the reasons, Mr. C. said, which he had stated, he was in favor of the amendment as proposed by the gentleman from Pennsylvania. He had, indeed, he said, prepared an amendment to the same effect, but was anticipated by that gentleman. He said, if it were in order, he would offer it as a substitute for that amendment. He then read it in his place, as follows:

“The Electors shall make two lists, one of which shall contain the names of all the persons voted for as President, and the number of votes given to each person respectively; the other list shall contain the names of all the persons voted for as Vice President, and the number of votes given to each person respectively; which two lists they shall sign and certify, and transmit sealed to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes on the list containing the votes for President shall be the President if such number be a majority of the whole number of Electors appointed. If on the list containing the votes for President no person have a majority of the whole number of the Electors appointed, then from the two highest on that list the House of Representatives shall immediately choose, by ballot, one of them for President, unless more than two persons have an equal number of votes, and that number shall be the highest on the list; in such a case the said House shall, in like manner, choose one of those persons for President; but, if one person only have the highest number on the list, and that number be not a majority of the whole number of Electors appointed, and if two or more other persons have an equal number of votes, if that number be the next highest, then from the person having the highest number and the persons having equal votes, the said House of Representatives shall, in like manner, choose one for President.”

Mr. C. said, he was not tenacious of his own composition, but he believed what he had prepared

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went somewhat further than the amendment proposed by the gentleman from Pennsylvania, and provided more explicitly as to the mode of proceeding of the Electors in making lists of their votes. On a subject of such immense importance, as the present, a subject which might involve the liberty and happiness of millions yet unborn, it was necessary that the expressions should be as clear and as definite as possible, that there ought to be no ambiguity, no expressions which might admit of misconstructions; that he had endeavored so to draw that which he had read to the Committee, in which he had thought it safer to repeat phrases than refer to them by relative expressions. He hoped that the decision would be conformable to the ideas contained in the proposed amendment.

The SPEAKER said it was not in order to receive the amendment of the gentleman from Virginia, unless that of the gentleman from Pennsylvania was previously withdrawn.

Mr. GREGG.—It was impossible fully to comprehend the two propositions offered, barely by hearing them read. Amendments to the Constitution were of great importance. He felt at a loss how to act in the present instance, not clearly understanding the resolutions proposed. He was in favor of the principle they contained, and had always been so. He had been in Congress in the year 1796 when the first proposition to this effect was made by a gentleman from New Hampshire. The inconveniences attending the last election had strengthened his conviction of the propriety of an amendment similar in substance to that offered. He viewed, therefore, with pleasure the attention now paid to the subject by the House, and hoped an amendment would take place at the present time. The more simple that amendment was, the more likely it would be to be approved by the States. In order ultimately to simplify it, so as to render it the least objectionable to the States, he wished every member, who had formed in his mind an eligible proposition, would now bring it forward, that the whole might be printed.

Mr. J. CLAY said, as there existed considerable difference of opinion, he would withdraw his motion in order to move that the Committee should rise, when he would move a recommitment of the report of the select committee.

Mr. NICHOLSON said that, before the question was taken on the rising of the Committee, he would offer an amendment to the resolution reported by the select committee. It was his opinion that the question of principle should be settled in the House; if not so settled, it would be impossible for the report of any select committee to meet the approbation of the House. In the select committee a variety of propositions had been offered; the Committee reported one, to which they had agreed; there were still endless amendments offered, which he was convinced would continue to be offered until some principle was fixed by the House. In making an amendment to the Constitution on this point, they ought to guard against all possible difficulties. The amendment of the gentleman from Pennsylvania goes to guard

against those difficulties. But cases may arise in which the amendment of the select committee will not be adequate. It says the election shall be made from the three highest persons voted for, but there may be cases where there are no three highest, where four, ten, or twenty of the persons voted for shall be equal in number of votes. This case is not embraced in the resolution. For this reason, Mr. N. said he should have been pleased in having the question taken on the amendment of the gentleman from Pennsylvania. But as that amendment had been withdrawn, he would move another, that the principle might be settled. He said he could conceive of no objection to giving the House of Representatives the right of making a choice of President from all those voted for by the Electors. The case, stated some days since by the gentleman from Virginia, (Mr. CLOPTON,) of one candidate having 87 votes, a second candidate having 86 votes, and three others having one vote, was extreme; and, if it should occur, he could see no inconvenience likely to result from the House of Representatives enjoying the right of making a choice from the whole five. It would be remembered that the House were chosen by the people, and would, in the selection they made, express the public will, as well as the Electors themselves. The feelings of the one would be in unison with those of the other; nor could he conceive that a House of Representatives would ever exist that would dare to choose a person having one vote. None would be found hardy enough to violate the public sentiment. He therefore moved to strike out from the report of the Committee all that part of it which confined the choice to the three highest. If the majority of the Committee should not coincide with him in opinion, he should wish the gentleman from Pennsylvania to renew his proposition. And, if the Committee concurred in neither, he should wish some other gentlemen to bring forward another principle. For, if the principle were not fixed there, he was convinced they would be involved in endless difficulties by the reports of select committees.

Mr. N. then moved to strike out these words:

"And if there shall be no such majority the President shall be chosen from the highest numbers, not exceeding three, on the list for President by the House of Representatives."

And insert in lieu thereof the following words:

"And if no such person have a majority, then the House of Representatives shall immediately choose a President from among those persons who have not been voted for as President."

Mr. DAWSON said that when the gentleman from Maryland moved the appointment of a select committee, he had voted against it, and for the very reason now assigned by him. As to the propositions at present offered, they had been severally reflected upon by the select committee; and, if referred to that committee, the House ought, in the first instance, to decide the principle. As to the amendment offered by the gentleman from Maryland, he conceived it scarcely necessary to make a single remark upon it, as the House was disposed to reduce rather than to extend the num-

ber of persons from whom a choice should be made. If adopted, it will give the House of Representatives a right to vote for 176 persons, as no candidate might have more than one vote.

Mr. NICHOLSON believed the proposition of the select committee would reduce them to the same situation as if of the 176 votes given, one was given to each candidate, no one would be higher than another. The proper reply to this remark was, that it was an extreme case, not likely to happen. Mr. N. said, he was not so anxious that his amendment should succeed, as that the principle should be fixed, in that House, some way or other.

Mr. GODDARD said, though he would not pledge himself to vote for the proposed amendment to the Constitution, in any shape whatever, yet he was in favor of the amendment offered by the gentleman from Maryland. He thought with him that there would be no great danger from the latitude allowed the House of Representatives, as they were chosen by the people as well as the Electors; nor could he perceive why they were more to be distrusted than the Electors. But the principal reason that operated with him in favor of the amendment was, that it extended the right of suffrage in the House of Representatives. It is well known that our system is that of a Confederation. There appeared to him no danger of 176 persons being voted for; the nature of the Government was such that but few persons would be voted for. But, if no choice is made by the Electors, he wished the right of the House of Representatives to be extended for this reason, because it will increase the power of the small States. As he conceived, the original proposition went effectually to impair the rights of the small States; and, indeed, any amendment would have that effect; but the amendment of the gentleman from Maryland having this effect as little as possible, he should vote for it.

Mr. SMILIE would wish one principle altered in the report of the select committee, viz: that which confined the election of the President to the three highest persons voted for. It was impossible for human wisdom to provide for all cases that might occur. Their time was not well spent in providing for cases extremely remote. He had but one object in view, the designation of office; and the more simple the proposition, the more likely they were to obtain this object. It should be recollected that the Constitution was the act of the people, and ought not to be altered till inconveniences actually arise under it. He believed, though particular parts might be defective in theory, they ought not to be changed till practical inconveniences had been experienced. No such inconvenience had yet been felt from choosing the President from the five highest on the list. Is it, then, prudent to embarrass the great principle, in which they generally concurred, with incidental propositions, when there was no necessity for them? This amendment was to obtain the assent of thirteen Legislative bodies before it would be binding. The simpler, then, the proposition, the more likely it was to succeed. His idea, there-

fore, was to leave the Constitution as it now stood, so far as it related to a choice being made from the five highest, and only so far to change it as related to a designation of the office.

Mr. SANFORD said the great object of the amendment ought to be to prevent persons voted for as Vice President from becoming President. If the amendment effected this, it was sufficient. All other innovation upon the Constitution was improper; and no danger could arise from extending the right of the House of Representatives to making a choice from the five highest.

Mr. RODNEY said that in the select committee he had been in favor of the number stated in the Constitution. He was not for innovating on the Constitution one tittle more than was absolutely necessary. As to the mere designation of office, the people looked for and expected it; and if that were obtained, they would be satisfied. He well knew that if amendments to this simple proposition were multiplied, objections to the whole would also be increased. Having been originally in favor of five, and thinking the inconveniences apprehended by some gentlemen not likely to occur, he should vote in favor of the amendment of the gentleman from Maryland, principally for the reason assigned by the gentleman from Connecticut, that it would allow to the smaller States a larger scope of choice.

Mr. ELLIOT hoped the amendment of the gentleman from Maryland would not prevail; and coming, as he did himself, from a small State, he trusted the House would pardon him for assigning his reasons for that hope. He felt as much confidence in the House of Representatives as the gentleman from Connecticut; but he was of opinion that their discretion ought to be limited. The amendment will give the House of Representatives the unqualified power of electing from the whole number on the list of persons voted for as President, and on that ground he opposed it. It was said to be a question of larger and smaller States, and those who represent the smaller States were called upon to check the usurpation of the larger States. Our system was undoubtedly federative, and there might be danger of an usurpation of the large States if the small ones were not protected by the Constitution. His wish was that they might be so guarded. But he still thought the discretion of the House of Representatives ought to be limited. When this subject was first discussed, an observation of a gentleman from Virginia (Mr. CLOPTON) had struck him with force. That gentleman had correctly stated that, according to the proposition then before the House, one candidate might have eighty-seven votes, another eighty-six, and three have one vote each, and a choice be made from among the candidates having but one vote. Should the amendment of the gentleman from Maryland obtain, the same right would exist in the House of Representatives. But the gentlemen asks if any House of Representatives will dare to elect a person having but one vote. He hoped they always would dare to do their duty, and it would then be their Constitutional right. But Mr. E. thought they ought

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not to possess this discretion. Gentlemen further say the great object is a designation of the office. It is so. It was his sincere wish that the simple object should be obtained. But he believed there would be no danger in adding to the proposition an amendment restricting the number from which the choice should be made.

Mr. G. W. CAMPBELL said he, too, represented a small State, and was anxious to preserve the rights of the small States. But in a great Constitutional question, while these rights were not lost sight of, principle ought also to be regarded. This he conceived to be his duty, whatever effect it might have upon the State he represented. For this reason he considered it proper to express his opinions on the present occasion. It was a vital principle to preserve the Constitution as pure as possible. This rendered it necessary to show that the proposition of the gentleman from Pennsylvania (Mr. CLAY) came nearer to the principle of the Constitution than that offered by the gentleman from Maryland. He had already observed that, there being at present no designation, four was the smallest possible number from which a choice could be made: to this number but one was added, making, altogether, five. In future elections there will be one hundred and seventy-six Electors, and if there be a designation of office, but one person can have a majority. To confine the choice to two persons will, therefore, in principle, approach as near as possible to the original principle of the Constitution.

Mr. C. was in favor of preserving that part of the Constitution which directed the election to be made by States, wishing as little innovation as possible on the principles of the Constitution. He did not, however, conceive a mere change of words dangerous, but the establishment of a principle that deprived the people of the power of electing those who possessed the largest share of their confidence. He was decidedly in favor of whatever had this effect, as according with the true spirit of the Constitution; and he was, therefore, opposed to the amendment of the gentleman from Maryland. His own opinion, too, was that it was best to express in one article whatever related to the election of President and Vice President, than refer to the Constitution; by which the provisions on that subject would be rendered much clearer.

The question was then taken on Mr. NICHOLSON'S amendment, and lost—ayes 29, noes 77.

Mr. SMILIE, in order to try the principle, would move to strike out "three," and insert "five."

Mr. FINDLEY seconded the motion.

Mr. DAWSON would only repeat a remark which he had already made. The select committee, in proposing three as the number from which an election should be made, did not consider themselves as departing in the least from the spirit of the Constitution; as, when both President and Vice President were voted for without discrimination, the choice was made from five.

Mr. SMILIE observed he did not know that there would be any danger in this innovation; but it was his wish not to alter the Constitution, except in cases of necessity.

Mr. GODDARD said that he was in favor of that amendment for the same reason that he had been in favor of that proposed by the gentleman from Maryland. The gentleman from Tennessee (Mr. CAMPBELL) has told us that it is our duty to act, not from motives of interest, but duty. Mr. G. considered it as his duty so to act as to protect the interests of his constituents, and of the State which he had the honor to represent. The gentleman further observes that in limiting the number from which a choice may be made, we shall insure a nearer approach to the will of the people. Now what is that will, but the will of the large States of Virginia, New York, and Pennsylvania? He apprehended that there might be cases where the interests of the smaller States might be materially affected. The larger States will generally have first nomination of the persons voted for as President and Vice President. If we dislike all the candidates, neither of whom shall have a majority of all the electoral votes, we may select from among them the one that best pleases us. He considered the Constitution so framed as to guard all the States. And if gentlemen are so tenacious of its vital principle, let them suffer it to remain as it is. But if there is a determination to alter it, which he feared was the case, he hoped no greater alteration would be made than was necessary to secure the end which gentlemen professed to have in view. The greater the number of candidates, the greater, in his opinion, would be the influence of the smaller States. Nor could there be any danger from reposing a discretion in the House of Representatives, as they were elected by the people as well as the Electors; and when it was known by the people that on them devolved the eventual election, they would be chosen in reference to the discharge of this duty, as well as the other duties constitutionally imposed upon them.

Mr. ALSTON was opposed to the amendment offered by the gentleman from Pennsylvania (Mr. SMILIE) to the amendment of the select committee, because in his opinion it would have a tendency to bring the election of a President of the United States more frequently into the House of Representatives, than otherwise it would be brought; he was as much disposed to guard against the influence of the large States as any member upon that floor.

The gentleman from Connecticut last up (Mr. GODDARD) was in favor of the amendment, because he thought it calculated to lessen the influence of larger States. For his part, Mr. A. thought very differently from that gentleman; he believed that, provided the amendment should be acceded to, it would be an inducement to any one of the large States to prevent an election of President by the Electors of the several States, that if the votes of a large State should be withheld from any of the candidates proposed as President, it would prevent such candidate from obtaining a majority of all the votes of the Electors. What then, Mr. A. asked, would be the consequence? The choice would have to be made by that House, which circumstance he never wished to witness again; this

he conceived to be an important point to guard against as much as possible.

He believed the fewer the number of the candidates or persons voted for, that the choice of President was confined to, the less chance there would be for that House to be called upon to make it. Should they adopt the amendment proposed, a strong inducement would be held out to any one of the large States, which might be displeased with the candidate proposed as President, to withhold the vote of their State, by which a majority of the votes of all the Electors would not be given to any one candidate, because the whole vote of a large State given to their favorite would be certain to bring him within the five highest upon the list; but, on the contrary, should they confine the choice to be made out of the two highest upon the list, agreeably to the proposition of another gentleman from Pennsylvania, (Mr. CLAY,) which had been withdrawn, many still would be more likely to promote the election of one of the candidates most likely to get the largest number of votes. He was therefore much better pleased with the motion which had been withdrawn. He should therefore give his vote against the present proposition, and should it be rejected, he would himself renew the proposition made by the gentleman from Pennsylvania on the other side of the House, (Mr. CLAY,) should it not be renewed by the gentleman himself.

Mr. RANDOLPH said he came to the House under the impression that another subject would have occupied their attention on account of its primary importance, not meaning, however, to disparage the importance of an amendment to the Constitution. But on a subject which must be discussed in a few days, if at all, it was improper that time should be lost. The proposed amendment to the Constitution was not, he believed, so extremely pressing as to require immediate attention. The subject to which Mr. R. had expected the attention of the House, would have been first directed was the Treaty with France. Hoping that the Committee would have decided on the amendment at an early hour, he had refrained from any motion. But perceiving that a decision was not likely soon to be made, he would move that the Committee should rise, for the purpose of taking up the treaty respecting Louisiana.

Mr. DAWSON opposed the rising of the Committee.

The question was taken on Mr. RANDOLPH'S motion, and carried—yeas 60, nays 55. When the Committee rose.

And on motion, the House adjourned.

TUESDAY, October 25.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying a report and sundry documents, marked A, B, C, D, E, F, G, and H, prepared in pursuance of an act, entitled "An act to establish the Treasury Department;" which were read, and ordered to be referred to the Committee of Ways and Means.

# LOUISIANA TREATY.

The House resolved itself into a Committee of the Whole on the Message from the President of the United States, of the twenty-first instant, enclosing a Treaty and Conventions entered into and ratified by the United States and the French Republic; to which Committee of the whole House was also referred a motion for carrying the same into effect.

Mr. G. GRISWOLD said he had hoped that some gentleman, in favor of the resolution under consideration, would have risen to assign his reasons in favor of it. But no gentleman friendly to its adoption having risen, and feeling himself embarrassed, he would take the liberty of suggesting his doubts as to the propriety of the resolution. He hoped the Committee would have the candor to believe that, in stating those doubts which hung upon his mind, his object was not to delay the progress of the measures contemplated, but to gain information.

In reflecting, for the short time during which the subject had been before him, he had not been able to pursue it in all its bearings, nor to solve all the difficulties it presented. He had first asked himself where was to be found the Constitutional power of the Government to incorporate the Territory, with the inhabitants thereof, in the Union of the United States, with the privileges of citizens of the United States—is there any such power? And if there is, where is it lodged? In giving his opinion on the Constitutional right of making treaties, he would say that it was vested in the President and Senate, and that a treaty made by them on a subject constitutionally in their treaty-making power, was valid without the assent of this House. This House had, to be sure, the physical power of refusing the necessary means to carry treaties into effect; but this power was essentially different from that conferred by the Constitution. But if the treaty-making power should be exceeded, if it should be undertaken to make it operate upon subjects not constitutionally vested, he had a right to say that it was his duty not to carry it into effect. Even should its provisions be highly beneficial, it was no less their Constitutional duty to resist it. He would not undertake to say that his mind was perfectly fixed, but he entertained doubts—serious doubts; and he hoped gentlemen would candidly give them answers.

He found in the third article of the treaty that

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Here then is a compact between the French Government and that of the United States, to admit to citizenship persons out of the jurisdiction of the United States, as it now is, and to admit territory out of the United States to be incorporated into the Union. He did not find in the Constitution such a power vested in the President and

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Senate. If such a power be not expressly vested, it must be reserved to the people. It was not consistent with the spirit of the Constitution that territory other than that attached to the United States at the time of the adoption of the Constitution should be admitted; because at that time the persons who formed the Constitution of the United States had a particular respect to the then subsisting territory. They carried their ideas to the time when there might be an extended population; but they did not carry them forward to the time when an addition might be made to the Union of a territory equal to the whole United States, which additional territory might overbalance the existing territory, and thereby the rights of the present citizens of the United States be swallowed up and lost. Such a measure could not be consistent either with the spirit or the genius of the Government.

For these reasons, Mr. G. was of opinion that no such power was delegated to any department of the Government; but if such power was delegated to any department, it must, in his opinion, be to the Legislature, as he should afterwards notice. It was not consistent with the spirit of a republican government that its territory should be exceedingly large; for, as you extend your limits you increase the difficulties arising from a want of that similarity of customs, habits, and manners, so essential for its support. It was certainly difficult to draw the precise line; but there was, notwithstanding, one beyond which we should not go.

But if the right of extending our territory be given by the Constitution, its exercise is vested in the Legislative branches of the Government. In the 3d section of the fourth article of the Constitution it is said, "New States may be admitted by the Congress into this Union." Congress may admit new States,—but, according to my construction of this article, are confined to the territory belonging to the United States at the formation of the Constitution—to the territory then within the United States. Existing territory, not within the limits of any particular States, may be incorporated in the Union. He contended, therefore, that the power to incorporate new territory did not exist; and that, if it did exist, it belonged to the Legislature, and not the Executive, to incorporate it in the Union. If this were the case, it was the duty of the House to resist the usurped power exercised by the Executive.

There was another ground as to the constitutionality of the treaty; at least one which excited doubts in his mind, which he hoped gentlemen would take up and remove. In the 7th article of the treaty are these words:

"As it is reciprocally advantageous to the commerce of France and the United States to encourage the communication of both nations for a limited time in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on: it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce and manufactures of France or her said colonies; and the ships of Spain coming directly from

Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on merchandise, or other or greater tonnage than paid by the citizens of the United States."

This article gives to the ships of France and Spain the same right of entering the ports of the ceded territory with our own vessels; and it precludes the ships of all other nations from the same right. Now if, as gentlemen contend, the new ceded territory with the inhabitants should become incorporated with the United States, there will be ports of entry in the United States into which French and Spanish vessels may enter on terms different from those on which they may enter other ports of the United States. The inference was that here was a favor granted to the ports of New Orleans over other ports. This was against an important principle of the Constitution; for, in the ninth section of the first article, we find, "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." This treaty then becomes a law of the land. It has made a commercial regulation. It gives to the ports of the ceded territory a preference to any other ports. Because the produce of France and Spain can be carried cheaper to their ports than to any other. If the principle contended for by gentlemen in favor of the treaty is admitted, I think I see a fatal blow proposed against the Constitution of the United States, by destroying the reciprocity of interest that unites at present the different members of the Union. Perhaps I see wrong.

Mr. RANDOLPH rose for the purpose of satisfying, so far as was in his power, the doubts expressed by the gentleman from New York. (Mr. G. GRISWOLD.) He had listened with great pleasure to the candid exposition which the gentleman had given of his objections, and from the temper which he had manifested, Mr. R. relied on being able to satisfy some of his scruples on this subject. The objections which have been urged to the motion before the Committee, resolved themselves into arguments against the constitutionality, and arguments against the expediency of the treaty proposed to be carried into effect. As it would be needless to repel objections of this last kind, unless those of the first description could be satisfactorily answered, he should first reply to the observations which had been made on the Constitutional doctrine.

He understood the gentleman from New York as denying that there existed in the United States, as such, a capacity to acquire territory; that, by the Constitution, they were restricted to the limits which existed at the time of its adoption. If this position be correct, it undeniably follows that those limits must have been accurately defined and generally known at the time when the Government took effect. Either they have been particularly described in the Constitutional compact, or



are referred to as settled beyond dispute, and universally acknowledged. But this was not the fact, in either case. The Constitution not only did not describe any particular boundary, beyond which the United States could not extend, but our boundary was unsettled on our northeastern, southern, and northwestern frontier, at the time of its adoption. But perhaps we shall be told, that, although our limits were in dispute with our English and Spanish neighbors, still there were certain boundaries specified in the Treaty of Paris, of 1783, which were the actual boundaries of the United States. It was, however, a well-attested fact—one of which we possessed official information from the Executive—that the limits assigned us by that treaty were incapable of being established. A line running west, from the Lake of the Woods, not touching the Mississippi at all: it followed that the United States were without limits beyond the source of the Mississippi. It will not be denied, that, among the powers which the Government possesses under the Constitution, there exists that of settling disputes concerning our limits with the neighboring nations. This power was not only necessary in relation to the disputed boundaries on the side of Canada and Florida, but was indispensable to a government over a country of indefinite extent. The existence of this power will not be denied: it has been exercised in ascertaining our northeastern and southern frontier, and it involves in it the power of extending the limits of the Confederacy. Let us suppose that the Commissioners, under the Treaty of London, had determined the river St. John or St. Lawrence to be the *true* St. Croix—would not that part of the province of New Brunswick or Quebec which lies on this side of those rivers at this time have been a part of the United States? Suppose the northern boundary of Florida had been fixed, under the Treaty of San Lorenzo, to extend from the Atlantic ocean to the Gulf; would not all the country north of this line and east of the Mississippi—part of the very country conveyed by the treaty lately negotiated, and which gentlemen conceived we could not constitutionally hold—would not that country, at this time, compose a part of the United States? That the Constitution should tie us down to particular limits, without expressing those limits; that we should be restrained to the then boundaries of the United States, when it is in proof to the Committee that no such bounds existed, or do now exist, was altogether incomprehensible and inadmissible. For, if the Constitution meant the practical limits of the United States, the extent of country which we then *possessed*—our recent acquisitions, on the side of Canada and the Natchez, could not be defended. But, sir, said Mr. R., my position is not only maintainable by the reason of the Constitution, but by the practice under it. Congress have expressed, in their own acts, a solemn recognition of the principle, that the United States, in their Federative capacity, may acquire, and have acquired, territory. It will be recollected, that adverse claims once existed between the United States and the State of Georgia, in relation to a certain tract of country

between the northern boundary of the Spanish possessions and what we contended was the southern limit of Georgia—the United States asserting that the country in question was the property of the United States, in their Confederate capacity, and the State of Georgia claiming it as hers. Although I have always advocated the claim of that State, it never was on the principle of an incapacity in the United States to acquire territory, or any other which affects the question now before us. It is true, sir, we appointed Commissioners to settle the matters in dispute, amicably, with Georgia; but in the meantime we assumed the jurisdiction, erected a government over the country, and thereby established the principle that the United States, as such, could acquire territory; the country in question, as we contended, never having been included within the limits of any particular States, and being ceded to the Confederacy by the Treaty of 1783. But perhaps it may be answered, that this acquisition, being made anterior to the date of the present Constitution, cannot affect any limitation or restriction, which it may have provided in relation to this subject; and that to prove that the old Confederation could acquire territory, is not to prove the same capacity in the present system of Government. To this I reply, that the Constitution contains no such expressed limitation, nor can any be fairly inferred from it: and that if the old Confederation—a mere government of States—a loosely connected league—all of whose powers, with many more, are possessed by the present Federal Government—if this mere alliance of States could rightfully acquire territory in their allied capacity, much more is the existing Government competent to make such an acquisition. To me the inference is irresistible.

But the gentleman does not rest himself on this ground alone. He does not embark his whole treasure in a single bottom. Granting that the United States are not destitute of capacity to acquire territory, he denies that this acquisition has been made in a regular way—Congress, says he, alone is competent to such an act. In this transaction he scents at a distance Executive encroachment, and we are called upon to assert our rights, and to repel it. If any usurpation of the privileges of Congress, or of this House, be made to appear, I pledge myself to that gentleman to join him in resisting it. But let us inquire into the fact. No gentleman will deny the right of the President to initiate business here, by message, recommending particular subjects to our attention. If the Government of the United States possess the Constitutional power to acquire territory, from foreign States, the Executive, as the organ by which we communicate with such States, must be the prime agent, in negotiating such an acquisition. Conceding, then, that the power of confirming this act, and annexing to the United States the territory thus acquired, ultimately rests with Congress, where has been the invasion of the privileges of that body? Does not the President of the United States submit this subject to Congress for their sanction? Does he not recognise the principle, which I trust we will never give up,

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that no treaty is binding until we pass the laws for executing it—that the powers conferred by the Constitution on Congress cannot be modified, or abridged, by any treaty whatever—that the subjects of which they have cognizance cannot be taken, in any way, out of their jurisdiction? In this procedure nothing is to be seen but a respect, on the part of the Executive, for our rights; a recognition of a discretion on our part to accord or refuse our sanction. Where then is the violation of our rights? As to the initiative, in a matter like this, it necessarily devolved on the Executive.

The unconstitutionality of this treaty is attempted to be shown by the following quotation from that instrument: "No preference shall be given to the ports of one State over those of another State," &c. But by the seventh article of the treaty, French and Spanish vessels, laden with the produce of their respective countries, are, for twelve years, to be admitted into the ports of the ceded territory on the same terms with our own vessels. In our other ports a discrimination is made between American and foreign bottoms. New Orleans, therefore, will enjoy an exemption, which will enable her to trade to the French and Spanish colonies on terms more advantageous than other ports. She is, therefore, a favored port, in contradiction to the express letter of the Constitution. To me it appears that this argument has more of ingenuity than of force in it—more of subtlety than of substance. Let us suppose that the treaty, instead of admitting French and Spanish vessels on the terms proposed, merely covenanted to admit American vessels on equal terms with those of France and Spain. If we had acquired this right (divested of the country) it would have been considered, and justly, as an important privilege. Annex the territory to it and you cannot accept it. You may indeed acquire either the commercial privilege, or the territory, without violating the Constitution—but take them both, and that instrument is infringed.

But the gentleman will recollect that the discrimination between foreign bottoms and our own is a creature of law, and not a provision of the Constitution. If his construction be sound it does not involve a necessary violation of the Constitution, it only involves the necessity of repealing these discriminating duties on French and Spanish products, brought in their own bottoms, into other ports than those of the ceded territory. It would therefore become gentlemen to adduce this as a proof of the inexpediency, rather than of the unconstitutionality of the treaty. For, however inexpedient it may be to repeal this discrimination, no one will contend that it is unconstitutional, and if the Constitution or the law were to give way, no one would hesitate between them. But I regard this stipulation as a part of the price of the territory. It was a condition which the party ceding had a right to require, and to which we had a right to assent. The right to acquire involved the right to give the equivalent demanded. Mr. R. said, that he expected to hear it said in the course of the debate, that the treaty in question might clash with the Treaty of Lon-

don, in this particular. He would therefore take this opportunity of remarking, that the privilege granted to French and Spanish bottoms, being a part of the consideration for which we had obtained the country, and the Court of London, being officially apprized of the transaction, and acquiescing in the arrangement, it would ill become any member of that House to bring forward such an objection.

Another case may be adduced to illustrate this question of constitutionality. During the last session of Congress, they had received information of the manifestation of a disposition, on the part of the possessors of this country, to violate our rights to the navigation of the Mississippi, as secured to us by existing treaties. There was no difference of opinion but as to the mode of asserting this right. On all hands, it was agreed that we would never relinquish this great object. A certain portion of the Legislature were disposed to resort immediately to violent measures. Another portion was of opinion that it was best to waive such measures, until amicable means of settling this difference had proved ineffectual. Let us suppose this to have been the case; that our negotiation, instead of its present happy issue, had terminated in a refusal of justice. I believe there would, in that event, have been but one sentiment in this House and in this nation. We should have appealed to arms, and if fortune had only been as impartial as our cause was just, we should have possessed ourselves, at least, of a part of the territory in question. Did any one dream of denying our right to the forcible possession of New Orleans, if necessary to secure the navigation of the Mississippi? Can a nation acquire by force that which she cannot acquire by treaty? Must not the eventual right to the country, possessed by conquest, be confirmed by treaty? And is it not idle to contend that so long as we employ force we may occupy the country, but no longer; that we cannot retain it by convention? Is not this to convert the question, from a question of political right, to a question of physical power? Mr. R. said, he was now done with the Constitutional objections, and he would finish by saying something of the expediency of the measure.

The gentleman from New York seems to dread this treaty as a death-blow to our commerce and carrying trade. What is the state of that trade now, in relation to the ceded country? But a short time ago, who would have asked more than to be put on an equal footing with the possessors of that country? We now have the sovereignty of it, and only stipulate that (for 12 years) France and Spain should be admitted, not on an equal footing with us, but that their vessels, laden with their own produce, not otherwise, should pay no higher duties than our own. At the expiration of that period we can give a decided preponderance to our trade by discriminating duties. Will the hardy and enterprising New Englander shrink from a competition with France and Spain on these terms? Cannot the discriminating duties be still enforced by the existing regulations in respect to imports from New Orleans to other parts

of the United States? So far from a clog on our commerce, does not this treaty unfetter the Mississippi trade and give us a preference over all other nations, except the case of the French and Spanish vessels, laden with the produce of their respective countries, and there we are on a footing with them?

Mr. R. said, that he would not dilate upon the importance of the navigation of the Mississippi, which had been the theme of every tongue, which we now possessed unfettered by the equal claim of the nation holding the west bank, a fruitful source of quarrel; but he would call the attention of the Committee to a report which had been made at the last session and to which publicity had lately been given.

I am not surprised, Mr. Chairman, that in a performance so replete with information, a single error should be discovered, especially as it does not affect the soundness of its conclusion. As long ago as the year 1673, the inhabitants of the French province of Canada explored the country on the Mississippi. A few years afterwards (1685) La Salle, with emigrants from old France, made a settlement on the Bay of St Bernard, and at the close of the 17th century, previous to the existence of Pensacola, another French settlement was made by the Governor, D'Iberville, at Mobile, and on the Isle Dauphin, or Massacre, at the mouth of that bay. In 1712, a short time previous to the peace of Utrecht, Louis XIV described the extent of the colony of Louisiana (by the settlements) in his grant of its exclusive commerce to Crozat. Three years subsequent to this, the Spanish establishment at Pensacola was formed, as well as the settlement of the Adais on the river Mexicana. After various conflicting efforts, on both sides, the bay and river Perdido was established, (from the peace of 1719) as the boundary between the French province of Louisiana on the one side and the Spanish province of Florida on the other: this river being nearly equi-distant between Mobile and Pensacola. Near the close of the war between England and France, rendered memorable for the unexampled success with which it was conducted by that unrivalled statesman the great Lord Chatham, Spain became a party on the side of France. The loss of the Havana, and other important dependencies, was the immediate consequence. In 1762, France, by a secret treaty of contemporaneous date with the preliminary Treaty of Peace, relinquished Louisiana to Spain, as an indemnity for her losses, sustained by advocating the cause of France. By the definitive Treaty of 1763, France ceded to England all that part of Louisiana which lies east of the Mississippi except the island of New Orleans—the rest of the province to Spain. It is to be observed that although France ostensibly ceded this country to England, virtually the cession was on the part of Spain; because France was no longer interested in the business, but as the friend of Spain, (having previously relinquished the whole to her,) and, because in 1783 restitution was made by England, not to France, but to Spain, England having acquired this portion of Louisiana,

together with the Spanish province of Florida, annexed to the former that part of Florida which lies west of the Apalachicola and east of the Perdido; thereby forming the province of West Florida.

It is only in English geography, and during this period, from 1763 to 1783, that such a country as West Florida is known. For Spain, having acquired both the Floridas in 1783, re-annexed to Louisiana the country west of the Perdido subject to the government of New Orleans, and established the ancient boundaries of Florida; the country between the Perdido and Apalachicola being subject to the Governor of St. Augustine. By the Treaty of St. Ildefonso, Spain cedes to France "the province of Louisiana with the same extent that it now has in the hands of Spain:" viz. to the Perdido, "and that it had when France possessed it" to the Perdido—and such as it should be after treaties subsequently entered into between Spain and other Powers:" that is, saving to the United States the country given up by the Treaty of San Lorenzo. We have succeeded to all the right of France. If the navigation of the Mississippi alone were of sufficient importance to justify war, surely the possession of every drop of water which runs into it—the exclusion of European nations from its banks, who would have with us the same causes of quarrel, did we possess New Orleans only, which we have had with the former possessors of that key of the river; the entire command of the Mobile and its widely extended branches, scarcely inferior in consequence to the Mississippi itself—watering the finest country and affording the best navigation in the United States—surely these would be acknowledged to be inestimably valuable.

But it is dreaded that so widely extended a country cannot subsist under a Republican Government. If this dogma be indisputable, I fear we have already far exceeded the limits which visionary speculatists have supposed capable of free Government. This argument, so far as it goes, would prove that instead of acquiring we ought to divest ourselves of territory. If the extent of the Republics of Greece, or Switzerland, of ancient or modern times, is to be our standard, we shall dwindle indeed. They have formed the basis of most theories on this subject. The acquisition of the country west of the Mississippi does not reduce us to the necessity of settling it now, or for a long time to come. It will tend to destroy the cause of Indian wars, whilst it may constitute the asylum of that brave and injured race of men.

Mr. R. concluded by apologizing for detaining the Committee so long. He was sorry that he had been unable to compress his remarks into a smaller compass.

Mr. J. Lewis said, that, on a question so important, it was proper that his vote should be accompanied by his reasons. With the gentleman from New York, (Mr. GRISWOLD,) he entertained doubts as to the constitutionality of the treaty; and if those doubts should be removed, he should vote for carrying it into effect. The part of the

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treaty to which he referred was in the seventh article, in the following words:

"As it is reciprocally advantageous to the commerce of France and the United States to encourage the communication of both nations, for a limited time, in the country ceded by the present treaty, until general arrangements relative to the commerce of both nations may be agreed on, it has been agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce and manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry, within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain or any of their colonies, without being subject to any other or greater duty on merchandise, or other or greater tonnage, than that paid by the citizens of the United States."

In opposition to this part of the treaty, he found in the Constitution of the United States this declaration: "No preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another."

It was on this point that he entertained doubts, which he wished might be removed. His honorable colleague (Mr. RANDOLPH) had not removed them: so far from removing, he had confirmed them.

Mr. L. was free to declare that his only objections were as to the unconstitutionality of the treaty; and should any gentleman remove them, he would not object to voting for carrying the treaty into operation; but, unless they were removed, he must vote against it.

Mr. RANDOLPH, in explanation, said that he thought he had suggested that the preference referred to was a legal and not a Constitutional difficulty.

Mr. LEWIS—Still the gentleman has not removed my difficulty. Congress possess no power to give a commercial preference to one State over another; and if the ships of France and Spain are permitted to enter New Orleans on terms more advantageous than they are permitted to enter other ports of the United States, it is a palpable violation of the Constitution.

The gentleman from Virginia has also told us that this preference is to be considered as the price paid for the ceded territory. I am astonished at this observation. As I understand the treaty, we are to take possession of Louisiana within three months from the ratification of the treaty; and as soon as taken into our possession, a specific sum is to be paid for it, which being done it becomes our sole property. If then we give a great advantage to the port of New Orleans, not enjoyed by other ports, I say such preference will be a palpable violation of the Constitution. For it must be evident to every mind that such a preference will operate against every State in the Union. For if the ships of France and Spain are permitted to enter New Orleans upon better terms than any other ports, they can afford to bring the productions

of those countries into New Orleans much cheaper than into any other ports of the United States. These are my only objections; if removed I shall have no difficulties; but until they are removed, I must be opposed to the resolution before the Committee.

Mr. GRIFFIN said that upon a subject so important, and so deeply interesting to his country, it would be unpardonable in him, and evince a dereliction of duty, to give a vote without assigning his reasons. On referring to the Treaty and the Constitution, and comparing their provisions, considerable apprehension had arisen in his mind; and he seriously feared the consequences of a collision between them. As he was only in search of truth, and as it was his sincere wish that all his apprehensions and doubts should be removed, he would take the liberty of stating his doubts on the constitutionality of the treaty.

In the 7th article of the treaty were these words, [quoting the words recited by the last speaker, as above stated.] This was evidently a commercial regulation. If a commercial regulation, and such he deemed it, the President and Senate have undertaken to form commercial regulations for the ceded territory.

In the eighth section of the first article of the Constitution, power is given to Congress "to regulate commerce with foreign nations." Is not, then, this treaty stipulation, made by the President and the Senate, in direct contravention of this Constitutional investiture of Congress? The Constitution says, "Congress shall have power to regulate commerce with foreign nations." Who are Congress? The Senate and House of Representatives. If, then, the President and Senate make a treaty for the regulation of commerce, they infringe the Constitution, by doing that which Congress alone can do. Thus, then, have the President and Senate, in their Executive capacity, legislated, and thereby infringed the rights of this House, as a branch of the Legislature.

In the same seventh article of the treaty, we find that "French ships coming directly from France, or any of her colonies, loaded only with the produce and manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the port of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on merchandise, or other or greater tonnage than that paid by the citizens of the United States."

In the ninth section of the first article of the Constitution, we find, "No preference shall be given, by any regulation of commerce or revenue, to the ports of one State over those of another." He was correct, he believed, in stating, that, under the present regulations of trade, Spanish vessels pay fifty cents per ton, while American vessels paid only six cents. Here, then, the President and

Senate undertake to destroy this provision made by law. For, according to the treaty, Spanish and French vessels entering the ports of New Orleans will hereafter pay only six cents a ton, while similar vessels coming to all the other ports of the United States will be obliged to pay fifty cents a ton. The difference between six and fifty constitutes the preference given to New Orleans.

Feeling these doubts most forcibly, he could not consent to give his approbation to the resolution until they were completely removed. He did not feel a disposition to discuss the merits of the treaty, or to go at large into the consequences which it might produce. He did, however, fear those consequences; he feared the effects of the vast extent of our empire; he feared the effects of the increased value of labor, the decrease in the value of lands, and the influence of climate upon our citizens who should migrate thither. He did fear (though this land was represented as flowing with milk and honey) that this Eden of the New World would prove a cemetery for the bodies of our citizens.

Mr. PURVIANCE.—I am clearly and decidedly in favor of the resolution on your table, premising the appropriations for carrying the treaty between France and this country into effect; and I sincerely regret, that in doing so, I shall act adversely to the general sentiment of the gentlemen with whom it is my pleasure and my pride to confess I have hitherto politically officiated.

It is true I am, and always have been, opposed to the general tenor of the present Administration. It has not appeared to me to possess that bold commanding aspect—that erect and resolute front—which ought to be assumed by the Executive of a free people, when claiming satisfaction for a wrong sustained. It has not shown that strong, muscular, athletic shape, which is calculated to intimidate aggression, or which is enabled to resist it; nor do I think that it has manifested that firm, dignified, manly tone of virtue and of spirit, which, resting on the love of a free people, and conscious of their strength, can ask for the prompt, direct, and unequivocal satisfaction to which it is entitled, and, being denied, can take it. It has not appeared like the veteran chief, ready to gird his loins in defence of his country's rights; but, if I may be allowed to use the *magna componere parvis*, it has, to my mind, somewhat resembled a militia subaltern, who, in time of war, directed his men not to fire on the enemy, lest the enemy might fire again.

Under such an Administration, I have thought that it would be better to have the ceded territory on any terms than not to have it at all. If we have not the spirit or the means of doing ourselves justice, would it not be better that we bribe those who might be in a situation to molest us, and thus put it out of their power to do us any injury, which we cannot or which we will not avenge? There are but two ways of maintaining our national independence—men and money. Since we did not use the first, we must have recourse to the last. One of these two we should be compelled to resort to if France gained possession of Louisi-

ana, and we had better resort to it now. I deny that they have as yet gained possession: they have not received a delivery of the four redoubts which garrison and command the country, nor have they a single armed soldier there, except those which are particularly attached to the equipage of the Colonial Prefect. If, sir, we were obliged to resort to the necessity of purchasing their friendship, after they had procured an establishment, it would not be confined to one instance of humiliation and acknowledgment on our part, or one instance of insult only on theirs. If we purchase this friendship once, we should be compelled to make annual contributions to their avarice, and be annually subjected to their insolence. Repeated concessions would only produce a repetition of injury, and, at last, when we had completely compromised our national dignity, and offered up our last cent as an oblation to Gallic rapacity, we would then be further from conciliation than ever. The spirit of universal domination, instead of being allayed by those measures which had been intended for its abatement, would rage with redoubled fury. Elated by those sacrifices which had been intended to appease it, it would still grow more fierce; it would soon stride across the Mississippi, and every encroachment which conquest or cunning could effect might be expected. The tomahawk of the savage and the knife of the negro would confederate in the league, and there would be no interval of peace, until we should either be able to drive them from their location altogether, or else offer up our sovereignty as an homage of our respect, and permit the name of our country to be blotted out of the list of nations forever.

I confess there are many gentlemen of that nation for whom I entertain the sincerest esteem; but although I love some of them as friends, they will pardon me when I say that I do not like all of them as neighbors. Blood, havoc, and devastation, have for some years past encircled their proximity, and circumstances equally disastrous and equally improbable have already taken place. Do we want any evidences of this? We can find them in Switzerland, in Italy, in Egypt, in Hanover, in France itself. We have seen the ancient throne of the Capets tumbled from its base; we have seen the tide of succession which had flowed on uninteruptedly for ages dammed up for ever; we have seen the sources of the life blood royal drained dry. And by whom? By the pert younglings of the day.

“An eagle towering in his pride of flight  
Was, by a mousing owl, hawked at and killed.”

We have afterwards seen these puny upstarts, when their hands had been reddened in the slaughter-pens of Paris, kicked from their seats and a Corsican soldier embellished with the majesty of the Bourbons. We have seen one half of the Old World subjected to his dominion, and the other half alarmed at his power. And is it thought, sir, that America alone, with an army scarcely sufficient to defend our garrisons, with a navy scarcely sufficient to punish a Bashaw, with a treasury incommensurate to our engagements, and

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an Executive unwilling to strain our energies—is it, I say sir, for America alone, under these circumstances, singly to withstand that gigantic nation, fighting on her own ground, fed from her own granaries, and furnished from her own arsenals? The time once was, indeed, when we could have redressed our own wrongs, and had an opportunity of doing so; but that necessity and that opportunity, I take it sir, have now both passed away.

Yes, thank God! We have now a treaty, signed by themselves, in which they have voluntarily passed away the only means of annoyance which they possessed. But I do not thank the honorable gentleman who is at the head of our Executive. At the time this negotiation was commenced there could not be the smallest hope of its being carried into effect. The French Consul had obtained it perhaps for the express purpose of carrying into effect his favorite scheme of universal domination; it might give him the chance of injuring the British, controlling the Spaniards, and dismembering America. Compared with these objects a handful of bank stock was of no more consequence to him than a handful of sand. His fleet and army were ready to sail, and his colonial prefect had already arrived. But, mark! The King of Great Britain, who at this crisis I take to have been by far the most able negotiator we had, declares war. The scene is now changed. That which France had refused to our intercessions, she was now compelled to grant from mere necessity. A state of warfare took place about the last of March, and the treaty was signed soon afterwards. As long as I retain the small stock of understanding which it has pleased God to give me, I shall never be induced to believe, that it was owing in the smallest degree to the efficacy of diplomatic representation. The mind of that great man is not made of such soft materials as to receive an impress from the collision of every gentle hand. Stern, collected, and inflexible, he laughs to scorn the toying arts of persuasion; his soul is a stupendous rock, which the rushing of mighty waters cannot shake from its place. No, sir; had it not been for this happy coincidence of circumstances, the personal solicitations of our Ministers would have been regarded with as listless an ear as if they had been whispered across the ocean.

But, sir, whatever may have been the causes which produced this treaty, whether it was owing to diplomatic agency, or to fortuitous incidents, its effects will certainly prevent an evil, if it does not produce a good. I do not think that there will be any positive advantage resulting from the sale of unlocated lands, as has to-day been hinted. On this score we need not expect a reimbursement; there is no doubt but that all the valuable lands contained within the circumscriptions of the Territory have already been granted by the Courts of Spain and France to their own subjects; nor do I see any restrictive provision in the treaty which would prevent the latter from continuing to issue patents up to very date of the ratification.

There may, however, be other advantages, or there may indeed be disadvantages, which, shroud-

ed as I am in the gloom of uncertainty, and not possessing the intelligence which has been asked for and withheld, I am unable to discern. To gentlemen who have been pleased to prevent our procuring it, these circumstances may be obvious, as they are more eminently situated they perhaps command a larger and a clearer prospect. If then the claim which has been transferred should be invested with any latent embarrassment; if the Court of Madrid has already signified any hostility to this treaty, in consequence of the non-performance of the stipulations contained in that or St. Ildefonso, respecting the recognition of the late King of Etruria; if our possession should be opposed, or our right of property hereafter contested, let the President look to it. He only will become responsible for every drop of American blood which may be drawn in such a contest, as he ought to have communicated any information to this effect which he possessed, in order that our discretion might be regulated accordingly.

As no such obstacles have been made known to us by the President, I will suppose that none such do exist, and I will, therefore, vote for the treaty; and even if a larger sum were necessary for its execution I would not withhold my assent, for the same reason that a man would give an exorbitant price for a piece of land adjoining his own, in order to prevent the settlement of a disorderly neighbor, who he thought would plunder his property or burn his enclosures; and, if this was the last public act of my life, I would sink into the grave under the pleasing impression that it was perhaps the best.

MR. ELLIOT.—Mr. Chairman, although in the short time since I have had the honor of a seat on this floor, I have several times risen in debate, that circumstance scarcely diminishes my diffidence at the present moment. Uneducated in the schools, and unpractised in the arts, of parliamentary eloquence, it is with no inconsiderable degree of diffidence that I rise upon the present occasion. There are occasions, however, where even the eye of timidity should sparkle with confidence; and there are questions in the discussion of which the finger should be removed from the lip of silence herself. And such is every occasion and every question involving the existence, the infraction, or even the correct and just construction of that Constitution which is the palladium of our privileges, and the temple of our glory. If I might be permitted to borrow a metaphorical expression from one of the most celebrated commanders of antiquity, who declared that he intended to spread all his sails on the ocean of war, I would say that it is with fear and trembling I presume to launch my little feeble bark on the vast ocean of eloquence and literature (*pointing to the federal members*) by which I am surrounded. If, however, the remark be just, that it is even sweet and glorious to die for one's country, surely the humbler sacrifice of native diffidence may with propriety be expected and exacted from a juvenile American Representative.

Whatever minuter shades or minor differences of opinion may exist among the American people,

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there is one point in which we shall all meet with cordial unanimity. We all unite in an ardent devotion to the Constitution. He who is not devoted to it is unworthy of the honorable name of an American. I lament that it is necessary to speak particularly of myself; but duty, not only to myself, but to my constituents, a numerous and respectable section of the American people, demands it. It may be objected to me, and with truth, that there was a time when I professed sentiments hostile to some of the most important provisions in the Constitution. It was not, however, at the time when the Constitution was submitted to the people. I was then in infancy and obscurity, deprived of the means, and even of the hopes of education. I had yet read much and reflected more. My ardent and excursive eye had wandered rapidly over the wide field of ancient history; I thought I beheld my country, like the Roman Republic in the age of Cato, the sport of every wind and of every wave. As far as I understood the Constitution, I admired it and wished for its adoption. But when an elegant anonymous writer predicted, as the consequence of its adoption, that "liberty would be but a name, to adorn the short historic page of the halcyon days of America," I trembled and shuddered for the possible consequences. If in the plenitude of juvenile self-sufficiency (and who has not been young?) I have since fancied that I could form a more perfect constitution, that dream of the imagination has long been past. I have long been sincerely and ardently attached to the Constitution.

I foresee that I shall be led into a wide field, and that I shall long, too long, occupy the attention of the Committee. Will the Committee hear me? I imagine that I read a favorable answer in the countenances of all its members. I shall be interrupted by no unpleasant indications of impatience, by no loud calls for the question.

The treaty before us is of an immense consequence, and my attention was early turned to the subject. From the moment of my election, I have devoted many studious and laborious hours to the subjects connected with it, and I have anticipated all the objections against it; none of those presented this day by the gentleman from New York, who opened the debate, or by the gentlemen who followed him on the same side, have struck my mind as novel. The question of the constitutionality of the treaty first presents itself. It is said to be unconstitutional, because it enlarges the territory of the United States. To reduce the arguments of gentlemen on this head to syllogistic form, they would not strike the mind with great force. The Constitution is silent on the subject of the acquisition of territory. By the treaty we acquire territory; therefore the treaty is unconstitutional. It has been well remarked by an eminent civilian, that those are not the most correct and conclusive reasoners who are very expert at their *quicquids*, their *atquis*, and their *ergos*; but those, who, from correct premises, by just reasoning, deduce correct conclusions. This question is not to be determined from a mere view of the Constitution itself, although it

may be considered as admitted that it does not prohibit in express terms, the acquisition of territory. It is a rule of law, that in order to ascertain the import of a contract, the evident intention of the parties, at the time of forming it, is principally to be regarded. This rule will apply, as it respects the present question, to our Constitution, of which it may be said, as the great Dr. Johnson said of the science of the law, that it is the last result of human wisdom acting upon human experience. The Constitution is a compact between the American people for certain great objects expressed in the preamble, [Mr. E. here read the preamble,] in language to which eloquence and learning can add no force or weight. Previous to the formation of this Constitution there existed certain principles of the law of nature and nations, consecrated by time and experience, in conformity to which the Constitution was formed. The question before us, I have always believed, must be decided upon the laws of nations alone; and under this impression I have examined the works of the most celebrated authors on that subject.

I recollect a time, sir, when a foreign Minister in this country, at a moment when genius, fancy, and ardent patriotism, were lords of the ascendant over learning, wisdom, and experience, spoke of the law of nations and its principles as mere worm-eaten authorities, and aphorisms of Vattel and others. I also recollect that the illustrious man, who is now President of the United States, was then Secretary of State, and that he delivered the unanimous sentiments of the American people when, in his reply to that Minister, he observed that something more than mere sarcasms of that kind was necessary to disprove those authorities and principles; and that, until they were disproved, the American nation would hold itself bound by them. This is the man, sir, who has been so injuriously calumniated within these walls this morning, and upon whom such a torrent of bitter eloquence has been poured by the gentleman from North Carolina (Mr. PURVIANCE); a gentleman who is himself a model of eloquence, uniting all the excellencies of Cicero and Demosthenes, and all other orators, ancient and modern.

The American people, in forming their Constitution, had an eye to that law of nations, which is deducible by natural reason and established by common consent, to regulate the intercourse and concerns of nations. With a view to this law the treaty-making power was constituted, and by virtue of this law, the Government, and the people of the United States, in common with all other nations, possess the power and right of making acquisitions of territory by conquest, cession, or purchase. Indeed the gentlemen who deny us the right of acquiring by purchase, would probably allow us to keep the territory, were it obtained by conquest.

Colonies, or provinces, are a part of the eminent domain of the nation possessing them, and of course are national property; colonial territory may be transferred from one nation to another by purchase; this purchase can be effected by treaty alone, as nations do not, like individuals,



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execute deeds, and cause them to be recorded in public offices; that department of the Government of the nation purchasing, which possesses the treaty-making power generally, is competent to make treaties for that purpose. These positions are established by the laws of nations, and are applicable to the case before us. [Here Mr. E. read a variety of extracts from Vattel to establish these positions, and observed that they were corroborated by Grotius, Puffendorf, and other eminent writers on the law of nature and nations, whose works he had consulted.]

A mere recapitulation, and that not a tedious one, of these principles and authorities, will now answer the present purpose. Colonies have always been considered as national property, although the law or practice of nations, in this instance, may not conform to the law of nature. Greece treated her colonies with peculiar indulgence: Rome considered any privileges which her's were suffered to possess, as mere matters of grace, not of right. The one was a natural and tender parent, the other a cruel stepmother. Yet I have no recollection that the Grecian colonies in Asia Minor, Italy, or even at Ionia, were represented in the Amphycionian Council, the General Assembly of the States of Greece. The claim of the British Colonies, which now constitute the United States, to be represented in that body by which they were taxed, though just in itself, was novel and unwarranted by the practice of nations. Thank God the claim was successful, and in consequence of it, we are now here as the representatives of the American people, deliberating upon their most important interests. It is unnecessary to reiterate the other positions; they are undeniable in themselves, and their applicability to the present case will hardly be disputed. If the treaty be extremely pernicious, or has not been made by sufficient authority, or has been made for unjust purposes, it is void by the laws of nations.

Another ground of objection to the constitutionality of the treaty is taken. It is said that a clause of the Constitution which forbids any preference, as to duties and privileges, being given to the ports of one State over those of another, is irreconcilable with the seventh article of the treaty, by which "it is agreed between the contracting parties, that the French ships coming directly from France or any of her colonies, loaded only with the produce or manufactures of France or her said colonies; and the ships of Spain coming directly from Spain or any of her colonies, loaded only with the produce or manufactures of Spain or her colonies, shall be admitted during the space of twelve years in the ports of New Orleans, and in all other legal ports of entry within the ceded territory, in the same manner as the ships of the United States, coming directly from France or Spain, or any of their colonies, without being subject to any other or greater duty on the merchandise, or other or greater tonnage, than that paid by the citizens of the United States." Let us again inquire with what views, and for what objects, the Constitution was formed. The articles of Confederation were but a feeble band of

union, the "shadow of a shade," to borrow a poetical expression, of a federal system. Several States, sovereign and independent with respect to many objects, united under a national Government as it respected the most important national objects, and formed a federal system, novel in its nature, and unequalled in the annals of all ages and nations. The States as such were equal, and intended to preserve that equality; and the provision of the Constitution alluded to, was calculated to prevent Congress from making any odious discriminations or distinctions between particular States. "No preference shall be given to the ports of one State." It was not contemplated that this provision would have application to colonial or territorial acquisitions. But it is said that the treaty obliges us to receive the inhabitants of the ceded territory into the Union, and of course to form them into new States. By the treaty, "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all rights, advantages, and immunities of citizens of the United States." This stipulation of the treaty is of a novel, singular, and curious nature, but does not diminish my zeal to have it carried into effect. A complete discretion is left to the United States as to the time and manner of admission, and I have no idea that it will be necessary to admit them within the twelve years during which France and Spain are to enjoy those privileges. The eloquent and honorable member from Virginia (Mr. R.) took a very different view of this subject, which of itself was perfectly satisfactory to my mind, and I could take still other views equally satisfactory. There can be no possible violation of the Constitution.

The expediency of the treaty is another question, and an important one. I once hoped that the interests of our country would never require an extension of its limits, and I regret even that that necessity now exists. Evils and dangers may be apprehended from this source, and great evils and dangers may possibly result. But the regions of possibility are illimitable; those of probability are marked by certain well defined boundaries, obvious to all men of reason and reflection, and, in the language of the poet,

"As broad and obvious to the passing clown,  
As to the letter'd sage's curious eye."

If we cannot find, in the peculiar principles of our form of Government, and in the virtue and intelligence of our citizens, a sufficient security against the dangers from a widely extended territory, in vain shall we seek it elsewhere. There is no magical quality in a degree of latitude or longitude, a river or a mountain. And it has been well remarked, that every danger from this quarter might have been apprehended before the acquisition of this territory. The Roman Empire, or that of Alexander in the zenith of its glory, was scarcely capable of containing a greater population than the territory of the United States; and men conversant with history do not wonder at the transient existence and rapid ruin of those

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empires. I repeat it, Mr. Chairman, we must look for our security in principles and circumstances inapplicable to the ancient nations. With the present question of expediency, I confess, sir, are naturally intermingled many considerations, infinitely interesting to the future peace, prosperity, felicity, and glory of our beloved country. The physical strength of a nation depends upon an aggregation of circumstances, amongst which, compactness of population, as well as territory, may be reckoned; our population may become too scattered; but this too is only a possible event. These possible evils ought not to be put in competition with the certain advantage which we derive from the acquisition.

But a gentleman tells us that the Administration hold out to us an Eden of the western world, a land flowing with milk and honey, while they have obtained nothing but a dreary and barren wilderness. Perhaps, if the gentleman be correct, the acquisition is scarcely the less important. To demonstrate the advantages of this purchase, it is not necessary to describe Louisiana as an Elysian region—to describe it, as Homer does the Fortunate Islands, a region, on whose auspicious climate even Winter smiles, where no bleak wind blows from its mountains, and no gale is felt but the zephyr, diffusing health and pleasure. But from geographical information, defective as it is, and from reasonable analogies, we may conclude that, with the exception of some considerable tracts, it is a country fertile and salubrious. Geography points us to China, Persia, India, Arabia Felix, and Japan, countries situated in corresponding latitudes, which, though always overshadowed by the horrid gloom of despotism, are always productive, and teaches us by analogy that Louisiana, in natural fertility, is probably equal to those beautiful oriental regions.

The gentleman from North Carolina (Mr. PURVIANCE) says, he shall vote for carrying the treaty into effect, because the possession of the territory is important, and the Administration not having, as it ought to have done, made use of men to obtain it, he will consent to make use of money. He has applied many curious epithets to the Administration. He wishes for an Administration *athletic* and *muscular*, meaning, I suppose, like the wrestlers in the Grecian circus, or the gladiators in that of Rome. When I came within these walls, sir, I ardently hoped that the voice of party would be silent during the discussion of this subject, and I did not expect to hear the Administration attacked in the language of vulgarity, malignity, and factious fury. When it is thus assailed, shall its defenders be silent? During the last session of Congress, an extraordinary degree of agitation was produced in the public mind by an egregious violation of our rights by an officer of the Spanish Government. Neither the people nor the Government were deficient in that spirit which the gentleman extols, but they were not governed by false ideas of national honor, and they were acquainted with the law of nations; they knew that we had no right to make the *denunciatio belli* precede the *repetitio rerum*—a declara-

tion of war precede a demand of justice. Other epithets which the gentleman applies to his favorite Administration I believe justly belong to the present one; bold, firm, intrepid, manly, virtuous, spirited; it is owing to its wise and temperate conduct that we are not now engaged in the horrors of war, and it has erected an immortal monument to its own glory. Yet we hear of malicious subaltern, and the epithet cowardly—

Mr. PURVIANCE here interrupted, and observed that he did not use those expressions.

Mr. ELLIOT proceeded.—I wrote them down the moment the gentleman uttered them, and I could not understand them otherwise than as intended to have at least a remote application to the President of the United States; I hope the gentleman had no such intention. That we did not go to war, though peculiarly happy for our country, was probably unfortunate for that gentleman, as, in that event, he might have displayed, at the head of a triumphant army, those military talents which he undoubtedly possesses in an equal degree with his oratorical powers.

I must remark upon another extraordinary part of that extraordinary speech. Was it politic, was it prudent, was it just, at a moment when such an important negotiation between the French and American Governments was closing, for a Representative of the American people to labor to irritate the French, or any portion of our own people, by ardent declamation against what is called the unbounded ambition and rapacity of the French Consul? That gentleman has told us what his great predecessor, but not equal in eloquence, Edmund Burke, told us long ago, that “the age of chivalry is gone.” But why turn our attention at this moment to Switzerland, to Italy, to Hanover, the bloody scenes of revolutionary France herself? He deplores the fate of the royal Capets, devoted to destruction by the pert younglings of a day. If the French revolution has been unsuccessful, if the hopes of the friends of man and liberty have not been gratified, if the whole Eastern world is still to groan under the iron hand of despotism, is it a subject of such deep regret that a gleam of light has darted athwart the horrid gloom; that we have for a time anticipated, though we have failed to realize, the blessings of extended liberty? It is rather a subject of pleasure, and gratitude to Heaven. The First Consul is styled a Corsican usurper. I believe, sir, that there is not within these walls an admirer of the present Government of France. But we all know the distinction between a King or Government *de jure* and *de facto*. If Bonaparte be not the rightful ruler of the French Republic, he is the actual possessor of the powers of Government, and can bind the nation by treaties. If the Bonapartian shall have followed the Capetian race to the regions of the tomb, when the exchange of the ratifications of this treaty shall reach Paris, it will not be the less obligatory upon the French nation.

The gentleman to whom I have so often alluded denies all merit to the President and the American negotiators, and says that the King of Great Britain was our only meritorious and

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successful negotiator. Without attributing to the President the powers of prophecy, I must hazard the opinion that, in common with all philosophic politicians, he foresaw that the peace between France and Great Britain would not be permanent. The elements of war were mingled with those of peace.

[Mr. SANFORD rose, and Mr. ELLIOT giving way, Mr. S. inquired of the Chairman, whether any rule existed by which members in Committee of the Whole could be required to keep closely to the point in discussion? The Chairman, Mr. DAWSON, replied, that it had not been customary, in Committee, to confine gentlemen to narrow limits in their remarks.]

Mr. ELLIOT concluded as follows: I had determined, sir, on the first unequivocal manifestation of impatience by any member, immediately to close my observations. I acknowledge that I have imperceptibly occupied more than my share of the valuable time of the Committee. But I had not quite done with the gentleman from North Carolina. I have paid him some compliments as an orator, perhaps more than were due to the merit of his oration, or the character of its author. I allude only to his political character; his private character, so far as I have information of it, I highly respect; but the political part which he acted this day was to me so extraordinary and astonishing, that I could not restrain the expression of my feelings. To other gentlemen on his side of the House, I look for *real* eloquence and ingenious argument. And although the gentleman from Virginia, (Mr. RANDOLPH,) from the display of his powers this day, may safely trust his fame as an orator to the impartial voice of history and posterity, in competition with any orator on the other side of the House, yet I am not without my fears, from former specimens of the talents of gentlemen in the opposition, that we shall one day be swept away in the overwhelming tide of their eloquence. The friends of the present Administration can behold, with emotions only of pity, mixed with contempt, the innumerable little, muddy, murmuring rills of faction, folly, and slander, which, like spots upon the orb of day, are scattered upon the fair scenery of our far extended country. But they are compelled to listen, with a loftiness of feeling bordering on sublimity and not unmingled with terror, to the awful roaring of that tremendous torrent of opposition eloquence which resounds within these walls, thunders around the Capitol, terrifies the Administration, and makes even the Republican system itself tremble to its centre.

Mr. CLAIBORNE urged the propriety of coming to an immediate decision, declaring his conviction of the constitutionality and expediency of the treaty.

Mr. THATCHER moved that the Committee should rise.

Motion lost, without a division.

Mr. SANFORD did not rise to make a display of his talents. Those who had confided to him the representation of their interests could have no such expectations, as they had unfortunately se-

lected a plain Western farmer. He was sorry to see so much time wasted. He begged the House would recollect the time within which it was necessary to pass laws for carrying the treaty into effect. Much has been said of a breach of the Constitution; but has any man shown it? The Constitution does not prohibit the powers exercised on this occasion; and not having prohibited them, they must be considered as possessed by Government. In his opinion, it was necessary to carry the treaty into immediate effect. This done, other measures would require attention which would afford an ample harvest for the talents and eloquence of gentlemen with which, on any other occasion, he would be highly pleased.

Mr. THATCHER was sorry to be obliged, at this late hour, to state his reasons for voting against the resolution; but he should not discharge his duty to his constituents, were he to refrain from expressing his ideas. These reasons he should state as briefly as possible. This resolution is general, and contemplates two objects; it calls for the occupation and government of Louisiana, and for an appropriation of fifteen millions of dollars. He had hoped that, on a question of such national importance, they would have been allowed the papers necessary for its elucidation. But gentlemen have denied us this privilege. As the question, whether the treaty should be carried into effect, is a great Constitutional question, I shall in my remarks confine myself to the Constitutional objections against the treaty. Two objections have been made arising from the 3d and 7th articles of the treaty.

The third provides that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

I conceive, said Mr. T., that the only sound doctrine is, not that which has been stated by the gentleman from Kentucky, (Mr. SANFORD,) that whatever power is not prohibited by the Constitution is agreeable to it, but that such powers as are not given are still held by the States or the people. No arguments have been addressed to prove that the Constitution delegates such a power. The gentleman from Vermont, (Mr. ELLIOT,) who has gratified us with so long and flowery a speech, and who has ransacked Vattel, and various other eminent authors on the laws of nations, has proved that where the United States have a right to make a treaty, a treaty may be made. But these authorities do not apply unless he prove that the Constitution gives the powers exercised in the present instance. The Confederation under which we now live is a partnership of States, and it is not competent to it to admit a new partner but with the consent of all the partners. If such power exist, it does not reside in the President and Senate. The Constitution says

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new States may be admitted by Congress. If this article of the Constitution authorizes the exercise of power under the treaty, it must reside with the Legislature, and not with the President and Senate.

The gentleman from Virginia says, the principle contained in the third article of the treaty has been already recognised by Congress, and has instanced our treaties with Spain and Great Britain respecting the adjustment of our limits. By adverting to these treaties, it will be seen that there was then no pretence that we had acquired new territory. They only establish our lines agreeably to the Treaty of Peace. Certainly then the facts are not similar, and there exists no analogy of reasoning between the two cases. The gentleman from Virginia asks whether we could not purchase the right of deposit at New Orleans? But the argument meant to be conveyed in this question does not apply. We had the right before this treaty was formed; nor did we, in consequence of that right, undertake to admit the people of New Orleans into the Union.

Gentlemen say, we were for going to war during the last session, for the purpose of acquiring new territory. Mr. T. knew the gentlemen with whom he generally acted, asserted on that occasion the right of the United States to the deposit at New Orleans, and were, in defence of that right, ready to go to war if necessary. But he had never heard that it was intended to hold that right in perpetuity; he believed it was only contemplated to hold it as a pledge until our right should be restored, and indemnity rendered for our injuries.

It is said that the preference given in the treaty to Spanish and French vessels is to be considered as part of the purchase money. But will gentlemen say it was a part of the purchase money when it is applied as well to Spanish as French vessels, though the purchase is altogether made of France? For these reasons it is, that the gentleman from Virginia has not convinced my mind respecting the constitutionality of this power. If it is not expressly delegated, I must hold that it is still retained by the States or the people. I believe, also, that the power now contended for by gentlemen implies the power of alienating a part of the United States, and that we might as constitutionally alienate Massachusetts and annex it to the British Provinces; for these rights of annexation of new territory and alienation of old must go together; and I shall not be surprised hereafter, if this treaty shall go into effect, at Massachusetts or Vermont being annexed to the British Provinces. Under color of this power, a large portion of the Union may be annexed to some European Kingdom, so as totally to change the principles of our Government.

So far as the provisions of this treaty affected the Eastern States, it bore hard upon their interests. The Constitution says, "no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another." Now, if this territory shall be annexed to the United States, New Orleans will have a

decided preference over all the other ports of the Union, inasmuch as the vessels of Spain and France entering that port will have to pay no higher duties than are demanded of our own vessels. The consequence will be, that the ships of Spain and France will come in, and supply not only New Orleans but all the country bordering on the Mississippi and the Ohio. What will be the consequence of this to the Eastern States, which the gentleman from Virginia has so handsomely complimented? If they possess a spirit of enterprise, it ought to be encouraged; instead of that, the effect of this treaty will be, that they must bring their goods from Europe to their own ports, and then carry them to New Orleans; by which freight and insurance will be greatly increased; and these charges will enable the French and Spanish vessels to monopolise the carrying trade. But it is said, this is not a Constitutional, but a legal provision. Now, if I can understand the obligations imposed by the Constitution, every department of the Government is bound by it. I conceive that the President and Senate in making treaties, as well as the Legislature in making laws, are bound by it. However great gentlemen may imagine the benefits of this treaty, they do not affect the Constitutional question. It was not therefore necessary to discuss the expediency of the measure, if unconstitutional; but as gentlemen had dressed these advantages in very alluring colors, it might not be improper to say that, if it went into effect, it would carry from its present centre a great portion of the population of the United States; would probably remove the seat of Government, and might dismember the Union.

Mr. T. was not disposed to discuss the causes which have produced the dismemberment of empires, though all history showed that great empires, whether monarchies or republics, had been ultimately broken to pieces by their magnitude.

This acquisition of distant territory, said Mr. T., will involve the necessity of a considerable standing army, so justly an object of terror. Do gentlemen flatter themselves that, by purchasing Louisiana, we are invulnerable? No, sir, Spain will still border on our Southern frontier; and so long as Spain occupies that country we are not secure from the attempts of another nation more warlike and ambitious.

Under these impressions it was impossible for him to vote for the resolution.

Mr. RANDOLPH was sensible of the value of the time of the House, and would not, in the few remarks he should make, occupy five minutes. The gentleman from Massachusetts (Mr. THATCHER) had misapprehended and misstated what he had previously observed. He had not said that the Constitutional question made by gentlemen was a mere legal injunction which that House might get rid of; but he had said that the preference of our ships over foreign ships was a legal regulation; and that, therefore, those gentlemen who were now so tender with regard to the Constitution, might have it in their power entirely to get rid of the Constitutional difficulty, by taking off from the ships of Spain and France such duties as

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were higher than the duties paid by American vessels. When I say this, said Mr. R., I speak for them, and not for myself; nor shall I move to take off these heavy duties, as I do not feel the force of the Constitutional objections urged by gentlemen. The article of the treaty, so often quoted, shows that no preference is given to one port over another. Yet, by turning to our statute books, it will be perceived that, at present, there are some ports entitled to benefits which other ports do not enjoy; that they are set apart for particular objects; and particularly for the entry of articles brought from beyond the Cape of Good Hope. According, therefore, to the doctrine of this day, this is a violation of the Constitution.

Mr. SMILES should not long detain the Committee. He differed with gentlemen on the Constitutional question; considering a right of annexing territory incidental to all Governments. If he were correct in this opinion, such a power was vested in some department of Government in the United States. That it was not vested in the States was clear, as they were expressly divested of the right. They were by the Constitution expressly divested of the right of forming treaties and making war. It could then reside in the General Government only. It was a position that could not be denied, that all societies possessed the right of self-protection. Let us then suppose that a nation unjustly attacked by another nation repels the hostility, and that the injured nation proves successful. Two things will result: the one, a right to indemnify for the injury received and the expense incurred; and the other, a right to future security by making such provisions as shall place it beyond the power of the aggressing nation in future time to repeat her injuries. If he was correct in these principles, and they were not disputed, the right of the United States to annex territory could not be contested, if that measure were connected with her future security. The right, indeed, was common to all nations, admitted by all, and denied by none.

Another Constitutional difficulty had been started, from the alleged obligation of the United States to incorporate this territory in the Union. Mr. S. wished gentlemen to attend to that part of the treaty which related to this point, and their difficulties would be removed. The treaty says:

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Now, where, said Mr. S., is the difficulty? We are obliged to admit the inhabitants according to the principles of the Constitution. Suppose those principles forbid their admission; then we are not obliged to admit them. This followed as an absolute consequence from the premises. There existed however a remedy for this case, if it should occur; for, if the prevailing opinion shall be that

the inhabitants of the ceded territory cannot be admitted under the Constitution as it now stands, the people of the United States can, if they see fit, apply a remedy, by amending the Constitution so as to authorize their admission. And if they do not choose to do this, the inhabitants may remain in a colonial state.

Mr. CROWNSHIELD.—Mr. Chairman: I rise, sir, to correct the gentleman from North Carolina in one particular; he has stated that the First Consul of France signed the treaty ceding Louisiana to the United States after the declaration of war by Great Britain against France. I believe he is mistaken, sir, for the Louisiana treaties were signed the 30th April, and Great Britain issued a declaration of war against France on the 17th of May. If I am right, the gentleman might have spared himself the trouble of detracting from the merits of the Executive on this great occasion.

Now I am up, I beg leave to state to the Committee some of the reasons why I shall give my vote in favor of the treaties.

A resolution is on the table which recommends that the provision ought to be made to carry into effect the late treaties with France, which cede Louisiana to the United States. Feeling as I do that we have acquired this country at a cheap price, that it is a necessary barrier in the Southern and Western quarters of the Union, that it offers immense advantages to us as an agricultural and commercial nation, I am highly in favor of the acquisition, and I shall most cordially give my vote in approbation of the resolution.

What, sir, shall we let slip this golden opportunity of acquiring New Orleans and the whole of Louisiana for the trifling sum of fifteen millions of dollars, when one-quarter part of the purchase money will be paid to our own citizens, and the remainder in public stock, which we are not obliged to redeem under fifteen years? I trust, sir, we shall not omit to seize the only means now left to us for getting a peaceable possession of the finest country in the world. The bargain is a good one, and considering it merely in that light, we ought not to relinquish it. I have no doubt that the country acquired is richly worth fifty millions of dollars, and it is my opinion that we ought not to hesitate a moment in passing the resolution on the table.

A gentleman from New York has started doubts respecting the privilege given in the seventh article to French and Spanish vessels coming directly from France and Spain, and their colonies, and loaded only with their produce and manufactures, to trade to ports in the ceded territory for twelve years upon the same terms as American or native ships coming directly from France and Spain. I have no objection to that article of the treaty; those vessels are to pay a tonnage duty, and a duty on their cargoes similar to our own; they are not to be admitted free of duty, but the United States reserve the right to make any regulations concerning the exportation of the produce and merchandise of our own country which may be thought necessary.

Our trading ships can easily contend against those of France and Spain in the ports of Louisiana. I should be very sorry that American vessels could not meet those of any other nation in all situations and in every country, where they may be received on equal conditions as it respects the duties. We actually build cheaper, and can navigate cheaper than any other nation on the globe; and of course we run no risk in contending with other vessels in the open market; and I flatter myself we shall soon see all foreign vessels driven from those ports by an honorable competition with them.

It surely cannot be unconstitutional to receive the ships of France or Spain in the ports of the new territory upon any terms whatever; it is a mere condition of the purchase, and this House may or may not agree to it; being a commercial regulation, we have the power to give our assent or dissent to the article in question, for I hold it to be correct doctrine, that the House, by the Constitution, have the power to regulate commerce with foreign nations, as well as with the Indian tribes; and that whenever the President and Senate make a treaty involving any commercial points, our consent is absolutely necessary to carry the treaty into effect.

By giving our assent we do not injure the rights of the other ports in the Atlantic States, as the privilege is extended only to ports in the ceded territory. I consider the Eastern States as particularly and deeply interested in the acquisition of Louisiana; it is true their ships already visit almost every port, but under many restrictions; and I wish to see them sailing on the Mississippi without any molestation or restraint.

Sir, I am in favor of adopting these treaties, and they shall have my hearty support.

There is no superiority granted to foreign vessels trading to Louisiana, it merely places them on an equal footing with our own ships in those ports, for a limited time. The difference of duties is only ten per cent. on the duty, and forty-four cents of tonnage; which difference of duties, I venture to say, have never given us but very trifling advantages in the intercourse of foreign nations with the United States.

We have now an opening for a free trade to New Orleans and Louisiana, which we never had before, and I hope we shall embrace it. Let us ratify the treaties, with all their provisions, and we shall see in less than three years that we have gained the greatest advantages in our commerce. I wish we may immediately proceed to adopt the resolution before the Committee.

Mr. R. GRISWOLD called for the reading of two resolutions which had been referred to the Committee of the Whole, and after the same had been read, he observed: That the two resolutions which had been read from the Chair explained, in some detail, the measures, with which the general resolution, for carrying into execution the treaties, was to be followed up. In deciding therefore, on the general resolution, it became necessary to keep in view the measures which were to result from it, that if we were not satisfied

with these, we might give our votes accordingly. The second resolution declares that it is expedient to provide by law for governing the ceded territory; and if gentlemen are not prepared to do this, or to provide the stock contemplated by the first resolution, they cannot agree to the general proposition under immediate consideration.

Before entering however into a consideration of these points, I think it proper, said Mr. G., to say, that I have been one of those who have long felt the importance, to this country, of the free navigation of the Mississippi, and of a place of deposit at some place near the mouth of that river. I deem the enjoyment of that navigation and deposit indispensable to the prosperity of our Western brethren; and there are few sacrifices I would not cheerfully make, consistent with the Constitution, to place those important privileges and rights beyond the reach of foreign control. The opinion which I now express has been of long standing and has not been weakened by any events which have recently taken place. So fully was I impressed at the last session, with the importance of these claims, that I was persuaded very vigorous measures ought to have been adopted for vindicating and securing rights which had been grossly violated. But whilst I again repeat, that the importance of our rights on the Mississippi has not been diminished in my view, it is necessary to declare, that I can never consent to secure this object, however desirable and important, by means which shall set at defiance the Constitution of my country.

It may not be improper, said Mr. G., in this place, also to declare, that I have been one of those who have long believed that the power of making treaties belongs exclusively to the President, with the consent of the Senate, and that a treaty, when constitutionally made and ratified, becomes a law, and must be executed accordingly. But it is essential to the existence of a treaty that it should be consistent with the Constitution, in every respect—both as it regards the subject-matter, and the form of ratification. If a treaty is repugnant to the Constitution, either in the matter of which it treats or in the form of ratification, it cannot be considered, within the meaning of the Constitution, a treaty. It is not within the words of the Constitution, "made under the authority of the United States,"—it is a dead letter, and void. If it shall then be found, that the instrument under consideration, contains stipulations which the Constitution does not warrant, it will result, that it cannot be respected as a treaty; that Congress, so far from being bound to carry it into execution, are obliged, by their duty and their oaths, to support the Constitution, and to refuse their assent to laws which go to infringe this great charter of our Government.

Having made these preliminary remarks, and in some measure explained the general principles by which I shall consider it my duty to test the treaty, I will again call the attention of the Committee to those parts of the instrument which have been noticed by other gentlemen, and which have equally excited in my mind doubts of its

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constitutionality. The third article of the treaty is thus expressed.

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

By this article it is declared: "That the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens." It is, perhaps, somewhat difficult to ascertain the precise effect which it was intended to give the words which have been used in this stipulation. It is, however, clear, that it was intended to incorporate the inhabitants of the ceded territory into the Union, by the treaty itself, or to pledge the faith of the nation that such an incorporation should take place within a reasonable time. It is proper, therefore, to consider the question with a reference to both constructions.

It is, in my opinion, scarcely possible for any gentleman on this floor to advance an opinion that the President and Senate may add to the members of the Union by treaty whenever they please, or, in the words of this treaty, may "incorporate in the union of the United States" a foreign nation who, from interest or ambition, may wish to become a member of our Government. Such a power would be directly repugnant to the original compact between the States, and a violation of the principles on which that compact was formed. It has been already well observed that the union of the States was formed on the principle of a copartnership, and it would be absurd to suppose that the agents of the parties who have been appointed to execute the business of the compact, in behalf of the principals, could admit a new partner, without the consent of the parties themselves. And yet, if the first construction is assumed, such must be the case under this Constitution, and the President and Senate may admit at will any foreign nation into this copartnership without the consent of the States.

The Government of this country is formed by a union of States, and the people have declared, that the Constitution was established "to form a more perfect union of the United States." The United States here mentioned cannot be mistaken. They were the States then in existence, and such other new States as should be formed, within the then limits of the Union, conformably to the provisions of the Constitution. Every measure, therefore, which tends to infringe the perfect union of the States herein described, is a violation of the first sentiment expressed in the Constitution. The incorporation of a foreign nation into the Union, so far from tending to preserve the Union, is a direct inroad upon it; it destroys the perfect union contemplated between the original parties by in-

terposing an alien and a stranger to share the powers of Government with them.

The Government of the United States was not formed for the purpose of distributing its principles and advantages to foreign nations. It was formed with the sole view of securing those blessings to ourselves and our posterity. It follows from these principles that no power can reside in any public functionary to contract any engagement, or to pursue any measure which shall change the Union of the States. Nor was it necessary that any restrictive clause should have been inserted in the Constitution to restrain the public agents from exercising these extraordinary powers, because the restriction grows out of the nature of the Government. The President, with the advice of the Senate, has undoubtedly the right to form treaties, but in exercising these powers, he cannot barter away the Constitution, or the rights of particular States. It is easy to conceive that it must have been considered very important, by the original parties to the Constitution, that the limits of the United States should not be extended. The Government having been formed by a union of States, it is supposable that the fear of an undue or preponderating influence, in certain parts of this Union, must have great weight in the minds of those who might apprehend that such an influence might ultimately injure the interests of the States to which they belonged; and although they might consent to become parties to the Union, as it was then formed, it is highly probable they would never have consented to such a connexion, if a new world was to be thrown into the scale, to weigh down the influence which they might otherwise possess in the national councils.

From this view of the subject, I have been persuaded that the framers of the Constitution never intended that a power should reside in the President and Senate to form a treaty by which a foreign nation and people shall be incorporated into the Union, and that this treaty, so far as it stipulates for such an incorporation, is void.

But, it has been said that the treaty does not in fact incorporate the people of the ceded country into the Union, but stipulates that they shall be incorporated and admitted according to the principles of the Federal Constitution. Or, in other words, the treaty only pledges the faith of the nation that such an incorporation shall take place. On this point, I will observe, that there is no difference in principle between a direct incorporation by the words of a treaty, and a stipulation that an incorporation shall take place; because, if the faith of the nation is pledged in the latter case, the incorporation must take place, and it is of no consequence whether the treaty gives the incorporation, or produces the law which gives it; in both cases, the treaty produces the effect. And the question still returns, does there exist, under the Constitution, a power to incorporate into the Union by a treaty or by a law, a foreign nation or people? If it shall be admitted that no such power exists without an amendment to the Constitution, and it shall be said that the treaty-mak-



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ing power may stipulate for such an amendment, it will be a sufficient answer to say, that no power can reside in any of the national authorities to stipulate with a foreign nation for an amendment to the Constitution. The constituted authorities of our Union have been created to execute the Constitution, not to change, or stipulate for changing it, and they can in no case lay the States under the smallest obligation to make the smallest change. Stipulations, therefore, of this nature, which create no obligation, are void.

Again: It cannot be said that the stipulations for this incorporation are Constitutional and valid, because it is declared that the inhabitants of the ceded territory are to be admitted to the right of citizens, according to the principles of the Constitution; because if, as has been contended, there is no principle, in the existing Constitution, by which they can be incorporated, the stipulation and treaty is not only void, but absurd.

A gentleman from Pennsylvania, however, (Mr. SMILIE,) has said, that it is competent for this Government to obtain a new territory by conquest, and if a new territory can be obtained by conquest, he infers that it can be procured in the manner provided for by the treaty. While I admit the premises of the gentleman from Pennsylvania, I deny his conclusion. A new territory and new subjects may undoubtedly be obtained by conquest and by purchase; but neither the conquest nor the purchase can incorporate them into the Union. They must remain in the condition of colonies, and be governed accordingly. The objection to the third article is not that the province of Louisiana could not have been purchased, but that neither this nor any other foreign nation, can be incorporated into the Union by treaty or by a law; and as this country has been ceded to the United States only under the condition of an incorporation, it results that, if the condition is unconstitutional or impossible, the cession itself falls to the ground.

Although I am unwilling to detain the Committee at this late hour, and wish not to delay the wishes of the majority, yet I must be permitted again to refer the Committee to the seventh article of the treaty. This article declares, that the ships of France and Spain, together with their cargoes, being the produce or manufacture of those countries, shall be admitted into the ports of the ceded territory on the same terms, in regard to duties, with American ships. It is certainly worth the consideration of the Committee, whether this article is consistent with the provisions of the Constitution. As our laws now stand, the ships of France and Spain are liable to an extra tonnage duty, and their cargoes to a duty of ten per cent. advance, when arriving in the Atlantic ports. The treaty declares that, in the ports of the ceded territory, this extra duty of impost and tonnage shall cease. The treaty does not, and probably cannot, repeal the law, which lays this extra duty in the Atlantic States, but those duties must still be collected. The Constitution, however, declares, in the eighth section of the first article, that "all duties, imposts, and excises, shall

be uniform throughout the United States," and in the ninth section of the same article, it is said, that "no preference shall be given by any regulation of commerce, or revenue, to the ports of one State over those of another." By the treaty, however, the uniformity of duties is destroyed, and by this regulation of commerce, contained in the treaty, a preference is certainly given to the ports of the ceded territory over those of the other States. Gentlemen who advocate the constitutionality of the treaty will scarcely say that the ceded territory is no part of the United States, and not embraced by the provisions of the Constitution, because such an assertion, while it avoided one difficulty would plunge them into another equally fatal, and prove that the third article is void, and, of course, that the cession itself is a nullity.

The gentleman from Virginia (Mr. RANDOLPH) has said that the discriminating duties of impost and tonnage are not a Constitutional but a statute regulation. This is undoubtedly true, but it must be recollected that the statutes are in force, and, so long as they remain unrepealed, the preference is given to the ports on the Mississippi, and the uniformity of duties is violated; and it cannot, most assuredly, be correct, to violate a principle of the Constitution for a day, under the expectation of curing the violation by a Legislative interference. If, however, it is really intended in this side manner to bring about a repeal of the discriminating duties, I hope it may at this time be so understood. The commerce of this country, and particularly that of the Northern States, has long flourished under these protecting duties; and it would be extraordinary, indeed, if a treaty should be formed, laying the Government under an obligation to repeal laws so essential to our commercial prosperity.

Before I dismiss this part of the subject, it may not be improper to consider some points which have been started by a gentleman from Massachusetts, (Mr. CROWNSHIELD,) in regard to the effect which the seventh article of the treaty must produce upon the commerce of the Eastern States. The remarks, which I shall submit upon these points, will apply only to the policy of the stipulation; but they may have some effect on those gentlemen who feel themselves at liberty to decide at large on the merits of the treaty; and they appear to me to be necessary, in reply to the gentleman from Massachusetts, to whose opinions I cannot subscribe. It has appeared to me, that the stipulation in the seventh article must be highly injurious to the trade of the Eastern States. The ships of France and Spain are to be admitted into New Orleans, on the same terms with our own ships. The discriminating duty, therefore, in respect to them, in that port, is virtually repealed. But we obtain no repeal of the countervailing duties in French and Spanish ports. The consequence must be that, while we are laboring under all the embarrassments of extra duties in their ports, they are liberated from every embarrassment in ours. The effect is easy to be seen; the whole trade from the mouth of

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the Mississippi to the French and Spanish colonies, and probably to their European possessions, must ultimately be carried on in French and Spanish bottoms, to the entire exclusion of American ships. Nor will the injury stop here; both France and Spain will doubtless prefer procuring their supplies from the United States in their own ships, and, while they hold the monopoly of the trade to the mouth of the Mississippi, they will be able to draw from that point an abundant supply of flour and other articles of produce, to the great prejudice if not to the ruin of the trade from the Atlantic ports to the French and Spanish colonies. How gentlemen, under such circumstances, can consider the interests of the Eastern States uninjured, is to me inexplicable.

Without detaining the Committee longer upon this subject, I will only observe that it is my wish that every doubt touching the constitutionality of the treaty may be removed. I do not personally feel any peculiar hostility to it. The importance of the navigation of the Mississippi, and a place of deposit at the mouth of it, has long convinced me of the necessity of adopting measures to place those objects beyond all future hazard. At the same time, I must be permitted to say, that I have not viewed the advantages from possessing the country on the west, as some gentlemen appear to have considered them. This subject was much considered during the last session of Congress, but it will not be found either in the report of the secret committee, which has recently been published, or in any document or debate, that any individual entertained the least wish to obtain the province of Louisiana; our views were then confined to New Orleans and the Floridas, and, in my judgment, it would have been happy for this country, if they were still confined within those limits. The vast and unmanageable extent which the accession of Louisiana will give to the United States; the consequent dispersion of our population, and the destruction of that balance which it is so important to maintain between the Eastern and the Western States, threatens, at no very distant day, the subversion of our Union. For these reasons, and many others which I will not detain the Committee to detail, I have doubted the policy of the treaty itself, when taken altogether; but the only points on which I feel myself at liberty to decide, are those which have been before explained, respecting the constitutionality of the treaty, and, until the doubts on these points are cleared up, I shall be compelled to vote against the resolution for carrying the treaty into execution.

Mr. NICHOLSON apologized for rising at so late an hour, and begged the indulgence of the Committee for a short time. He said he would endeavor to pursue the laudable example held out by the gentleman from Connecticut, who had just sat down, (Mr. R. GRISWOLD,) by compressing his observations into as small a compass as possible. He should, therefore, necessarily be compelled to pass over the immense advantages which would be derived to the United States from the acquisition of territory made by the treaty with France; nor, indeed, did he consider it a subject that re-

quired to be dwelt on in this House, as the attention of the public had been drawn to it for some months past, and he believed that nothing could now be added to the volumes which had been already written and circulated in the daily prints.

Gentlemen had noticed the report of a committee during the last session, of which he had the honor to be the chairman, and had endeavored to question the value of the acquired territory, because that report had only contemplated the acquisition of New Orleans and the Floridas. It was certainly true that the committee, in viewing this subject, had confined themselves to the immediate cause of complaint, and as the right of deposit had been suspended at New Orleans, their great object was to have this restored as speedily as possible, and to recommend such measures as would prevent a similar suspension at a future day. An inquiry of this kind naturally led to a view of the situation of the Western country generally, and it was readily perceived that the same inconveniences which had occurred in relation to the mouth of the Mississippi, might at some future period, perhaps not very distant, embarrass the commerce of the whole Mississippi Territory, the western part of Georgia, and the eastern parts of Tennessee. It was seen that the produce of this valuable country must be carried to sea by means of the great rivers which rise in the Mississippi Territory, but pass through East and West Florida before they reach the Gulf of Mexico; and the committee were of opinion that these ought, if possible, to be secured by treaty. As one of the committee, he was free to declare that he did not at that time entertain the most distant idea that the almost boundless tract of country lying west of the Mississippi, could be obtained by our Government on any terms, much less for the comparatively inconsiderable sum which we had agreed to pay for it. Had he then offered an opinion on the subject, he should have no hesitation to say that the west bank of the Mississippi was almost incalculable in its value to the United States, if it was only for the purpose of preventing any foreign nation from colonizing it. If that country were thickly settled by a foreign nation, the whole river Mississippi, from its source to the sea, must have been guarded by a strong chain of military posts; whereas the wilderness itself will now present an almost insurmountable barrier to any nation that may be inclined to disturb us in that quarter. The opportunity of acquiring this country, together with the island of New Orleans had presented itself to our Executive, and they had most wisely resolved to embrace it. The error, which had been spoken of in the report, was in fact no error. The committee intended to offer a geographical and not a historical view of the subject. Their object was to describe the country lying between the southern boundary and the Gulf of Mexico, and they adopted such names as were used by modern geographers, without intending to settle the dispute as to the ancient boundaries of Louisiana.

The gentleman from Virginia (Mr. RANDOLPH) had very accurately detailed the various changes

that territory had undergone, and had correctly stated, that it was divided into East and West Florida after the peace of 1763, while in possession of Great Britain. If we should be able to fix the eastern boundary of Louisiana at the river Perdido, there was no doubt that the value of our purchase would be considerably enhanced, as by that means we should certainly secure the whole of the Mobile bay, and the mouths of some other large rivers. Mr. N. said, however, he did not mean to go into a consideration of the numberless advantages derived to us by the acquisition of Louisiana, nor would he at that very late hour have trespassed upon the time of the Committee, but for the Constitutional doubts which had been expressed by gentlemen on the other side of the House.

These Constitutional difficulties, he said, appeared to him to be entirely separate and distinct, though gentlemen had very ingeniously blended them, and had considered them as one. Whether the United States, as a sovereign and independent empire, had a right to acquire territory, was one question, but whether they could admit that territory into the Union, upon an equal footing with the other States, was a question of a very different nature. Upon this latter point, he meant to offer no opinion, because he did not consider it before the House; when the subject should come properly into discussion, he should have no objection, not only to enter at large into the Constitutional authority to admit the newly acquired territory into the Union as a State, but likewise to inquire whether this was really the spirit and intention of the third article of the treaty? The question now before the Committee was, is it expedient to carry this treaty into effect? And to be sure, if gentlemen were of opinion that the Government had no authority to acquire territory, the treaty ought to be rejected, because we should gain nothing by it.

But, sir, said Mr. N., had I been asked anywhere but in this House, whether a sovereign nation had a right to acquire new territory, I should have thought the question an absurd one. It appears to me too plain and undeniable to admit of demonstration? Is it necessary to resort to ancient authorities to establish a position which is proved by the conduct pursued by all nations, from the earliest periods of the world, and which arises from the very nature of society? Can it be doubted that, when a State is attacked, it has the right to assail its enemy in turn, and weaken the aggressor by dispossessing him of a part of his territory? Surely, the opinions of all writers, both ancient and modern, and the examples of all nations, in all ages, can leave no reason to doubt on this subject. But, sir, on this, as on most other occasions, we are told that the Constitution stares us in the face, and that this treaty cannot be carried into effect without violating the Constitution. If, indeed, this sacred instrument forbids the acquisition of territory by the United States, I will most readily admit that we ought to stop here.

Let the Constitution, however, be examined, let the principles on which it was formed be taken

into view, and it will be found that, instead of forbidding, the Constitution recognises the authority to acquire territory. In the year 1776, when the United States absolved their allegiance to Great Britain, each State became a separate and independent sovereignty. As independent sovereignties, they had full power, in the language of the Declaration of Independence, "to levy war, 'conclude peace, contract alliances, establish commerce, and do all other acts and things which 'independent States might of right do.'" Each State, separately and for itself, had all the attributes of sovereignty, and no man can be hardy enough to deny that, at that time, any of the respective States had the capacity to extend its limits, either by conquest or by purchase. These are the only two methods, indeed, by which territory may be acquired; and there have been very few wars in which the subjects of one nation or another have not been compelled to change masters. In the year 1781, the articles of Confederation were finally agreed to, and each State surrendered a portion of its sovereignty for the common benefit of the whole. Much was reserved, but much was given up. The management of external concerns was given to Congress, and Congress alone had the power to levy war, conclude peace, and contract alliances. The capacity of the individual States to acquire new territory no longer remained to them. It was surrendered to the General Government, with the powers of peace and war. In the year 1788, the States again returned, as it were, to their original independence. Their sovereignty was once more assumed. They deliberated about the means of a more permanent Union, to secure to themselves and their posterity all the blessings of liberty. The present Constitution was adopted, and even a larger portion of individual sovereignty was surrendered. The right to declare war was given to Congress, the right to make treaties to the President and Senate. Conquest and purchase alone are the means by which nations acquire territory. The one can only be effected by war, the other by treaty, and when the States divested themselves of these powers, and gave them to the General Government, they gave, at the same time, that right to acquire territory, which they themselves originally had. The right must exist somewhere. It is essential to independent sovereignty. The tenth section of the first article of the Constitution expressly prohibits the States from entering into treaties, or levying war, and even from forming any compact or agreement with another State, or a foreign Power, without the consent of Congress. All the rights which the States originally enjoyed, are either reserved to the States, or are vested in the General Government. If they once had the power individually to acquire territory, and this is now prohibited to them by the Constitution, it follows, of course, that the power is vested in the United States.

The gentleman from Connecticut (Mr. R. GRISWOLD) admits that, during the last session, he was an advocate for very vigorous measures. By vigorous measures, he means war. Will he

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deny, that it was his wish to seize upon New Orleans by force? Will he deny, that this, and this alone, was the reason why his friends and himself did not unite with us in the measures then adopted for the purpose of acquiring this country? If the gentleman's object was war, if his object was conquest, did he mean that we should drive all the inhabitants of the island into the Gulf of Mexico, and afterward retire into our own limits? Did he wish that we should fight for the sake of conquest only, and not with a view to enjoyment? If he then thought that, after conquering New Orleans, we should have a right to hold it, surely, it will not now be denied that we can hold it, after having obtained it by peaceable measures.

The gentleman seems, however, partly to have abandoned this ground, but, in his opinion, the treaty itself violated the Constitution. With that gentleman, I am unwilling to set the Constitution at defiance. I trust we shall maintain it in all its vigor. The third article of the treaty, he says, either admits the ceded territory into the Union immediately, or pledges us to do it hereafter. It cannot be contended that the territory is *ipso facto* admitted, but the objection is, that the President and Senate have no right to pledge the Government for anything not immediately within their own powers. This objection is not solid. Every day's practice proves that it is without any force whatever. The President and the Senate have the treaty-making power vested in them, but almost all their treaties contain stipulations which must be performed by this House, if they are ever performed at all. In our last convention with Great Britain, the President and Senate pledged the United States to the payment of six hundred thousand pounds sterling, yet the payment of this money was not within the powers granted to them by the Constitution, nor could it ever have been paid without the concurrence of this House. It was never doubted, however, that this stipulation was Constitutional. The present treaty with France pledges the United States to the payment of fifteen millions of dollars, yet gentlemen do not question the constitutionality of this measure, although it never can be carried into effect without the co-operation of this House. In fact, there is no treaty made with a foreign Power in which some of the regulations must not lie entirely inactive, unless this House shall give its assent to them. So, in the present instance, the fifteen millions of dollars can never be paid, nor the ceded territory admitted into the Union, unless this House shall give its assent.

It is said, however, that Congress cannot, under the Constitution, admit foreign territory into the Union upon an equal footing with the States, even under that article of the Constitution which provides that new States may be admitted. I have before said that, upon this point, I mean to offer no opinion, because, at this time, I think it unnecessary; nor need we now inquire, whether this is, in reality, the meaning of the treaty. The gentleman from Connecticut, however, assuming this ground, contends that as the treaty embraces objects not in the power of the General Govern-

ment the whole is, of course, invalid. There may be some plausibility in this argument, but it is plausibility only. It has been already proved that the treaty-making power frequently and of necessity embraces objects not in the power of the President and Senate, but of the whole Legislature, yet that this does not of course invalidate the treaty. It may be shown that, where a treaty contains stipulations which are not in the power of the General Government, and, of course, cannot be carried into effect, yet that this does not invalidate the whole, although these particular stipulations may of themselves be void. An instrument might sometimes contain covenants which were impossible, or that were *mala in se*; these, of course, would be void, but others might, nevertheless, stand good. I take a distinction, which I am warranted in by the best writers, between articles of a treaty, which are violated by one party, and articles which, from the nature of things, or from previous engagements, are void. Where one party violates an article in a treaty, the other has the right to declare the whole void, because the violation is a breach of faith, and is a voluntary act. But where some of the stipulations of a treaty are impossible to be performed, or cannot be fulfilled consistently with the engagements of an antecedent treaty with a third Power, these are, of course, void, but other parts will stand good. A variety of cases might be cited to prove this, but a very strong one will be found in our Treaty of Peace with Great Britain, concluded in 1783. The fourth article of that treaty provided that creditors on either side should meet with no lawful impediment to the recovery of debts *bona fide* contracted previous to the war. This was a stipulation which Congress could not perform. In all matters relating to the recovery of debts, the individual States retained entire and uncontrolled authority. The objects embraced by this article were completely out of the power of Congress. The right to make treaties had been committed by the articles of Confederacy to the General Government, but, in this particular, the assent of the States was absolutely necessary before that part of the treaty could be carried into effect. Great Britain remonstrated repeatedly, but some of the States, particularly Virginia, refused to concur. Congress recommended it to the States, to declare the treaty the supreme law, but the recommendation was not attended to. That article of the treaty was, of course, invalid, and never was fulfilled on the part of the United States. Yet it is certain that the whole treaty was not thereby rendered a nullity. Our independence was acknowledged. Hostilities ceased, and the British armies were withdrawn. The cases are extremely analogous, and if it should finally be determined that Congress cannot admit the ceded territory into the Union as a State, yet the other parts of the treaty with France will stand good. If this was the intention of our Ministers, (which, perhaps, may be doubted,) they seem to have guarded against the event of a refusal either by Congress or by the people. For it is declared expressly that, until the inhabitants can

be incorporated into the Union, and can be admitted to all the privileges of citizenship, they shall be protected in the enjoyment of their civil and religious rights.

The other Constitutional objection is raised upon the seventh article of the treaty, which provides that the ships of France and Spain shall be admitted for twelve years into the ports of the ceded territory, without paying higher duties than the ships of the United States. To this gentlemen have opposed that part of the Constitution which declares that no preference shall be given to the ports of one State over those of another, and that all duties, imposts, and excises, shall be uniform through the United States. There appears to be a strange inconsistency in the arguments of the gentleman from Connecticut. He tells you that this territory is not a State, and that it never can become a State; yet he afterwards declares that the treaty violates the Constitution by giving the port of New Orleans a preference over the ports of the Atlantic States. There is surely a contradiction here. Whatever may be the future destiny of Louisiana, it is certain that it is not now a State. It is a territory purchased by the United States, in their confederate capacity, and may be disposed of by them at pleasure. It is in the nature of a colony whose commerce may be regulated without any reference to the Constitution. Had it been the Island of Cuba which was ceded to us, under a similar condition of admitting French and Spanish vessels for a limited time into the Havannah, could it possibly have been contended that this would be giving a preference to the ports of one State over those of another, or that the uniformity of duties, imposts, and excises throughout the United States would have been destroyed? And because Louisiana lies adjacent to our own territory, is it to be viewed in a different light? Or can the circumstance of its being separated by a river only, instead of the sea, constitute any real difference in regard to the commercial regulations which we may think proper to establish? The restrictions in the Constitution are to be strictly construed, and I doubt whether under a strict construction the very same indulgence might not be granted to the port of Natchez, which does not lie within any State, but in the territory of the United States. It has never been deemed expedient to do so, and in all probability never will. Nor is it presumable that this regulation in relation to New Orleans would have been made, but for the importance of the great objects with which it was connected.

Mr. N. believed that the gentleman from Connecticut need not entertain any apprehensions that the provisions contained in the seventh article of the treaty were intended to commence the repeal of the countervailing duties. It was true that some gentlemen had thought very favorably of the repeal at a former session, and he acknowledged himself to be of that number. But as it was a regulation more materially affecting the commercial part of the community, and as they had been opposed to it, the subject was dropped. He did not know that there was any intention to

revive it, although possibly a majority of that House might be inclined to assent to it. Yet this could have no connexion with the treaty, much less could it have any connexion with the question immediately under consideration. We only have to determine whether we will carry this treaty into effect. Whether we will agree to appropriate the fifteen millions of dollars, and authorize the President to take possession. The latter has been agreed to, and surely we cannot consent to receive possession without paying the equivalent promised on our part.

Mr. N. closed his remarks by again begging pardon of the Committee for the time he had occupied, and offered his acknowledgments for the indulgent attention he had received.

Mr. RONNEY said, that in the observations he rose to make at that late hour, he should be brief, and apply them entirely to the Constitutional question, as it was scarcely contended the bargain was not a good one. In making them he cordially joined with the gentleman from Connecticut, (Mr. GRISWOLD,) when he expressed his wish that the discussion should be conducted with coolness and temper. It was not only the duty, but the interest, of every gentleman on the floor that this important subject should be decided on argument and argument alone. He felt the force of the objection urged by the gentleman from Maryland, (Mr. NICHOLSON,) that the discussion of some of the points was premature. He should, however, enter into a brief exposition of them.

It is contended that the United States have no right to purchase territory; that they have no right to admit the people of Louisiana to a participation of the rights derived from an admission into the Union, and that a peculiar favor is about being granted to the ports of New Orleans, in violation of the Constitution.

In the view of the Constitution the Union was composed of two corporate bodies, of States and Territories. A recurrence to the Constitution will show that it is predicated on the principle of the United States acquiring territory, either by war, treaty, or purchase. There was one part of that instrument within whose capacious grasp all these modes of acquisition were embraced. By the Constitution Congress have power to "lay and collect taxes, duties, imposts, and excises, to pay the debts and provide for the common defence and general welfare of the United States." To provide for the general welfare! The import of these terms is very comprehensive indeed. If this general delegation of authority be not at variance with other particular powers specially granted, nor restricted by them; if it be not in any degree comprehended in those subsequently delegated, I cannot perceive why, within the fair meaning of this general provision is not included the power of increasing our territory, if necessary for the general welfare or common defence. Suppose, for instance, that Great Britain should propose to cede to us the island of New Providence, so long the seat of pirates preying upon our commerce, and the hive from which they have swarmed; will any gentleman say that we ought

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not to embrace the opportunity presented as a defence against further depredations? Suppose the Cape of Good Hope, where our East-Indiamen so generally stop, were offered to be ceded to us by the nation to which it belongs, and that nation should say on our possessing it, you shall declare it a free port. Is there any member who hears me that could contend that we were not authorized to receive it, notwithstanding the great advantages it would insure to us?

But it appears to me, independently of this provision of the Constitution, and the gentleman from Connecticut (Mr. GRISWOLD) admits it, that according to the rights of war we may extend our territory. An enemy might come within our lines, and we expel him: our lines not being the limits to which our arms would be confined, we could pass them, and take possession of the enemy's country, and thereby undoubtedly acquire a right to the territory occupied. For, in the Constitution, it is expressly said that Congress shall have power "to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water;" and among the *jura bella* was clearly recognised the right of annexing territory. But there is one article of the Constitution which is predicated on the right to purchase territory. We have a right to obtain territory by purchase from a State. In the provision made in the Constitution respecting the territory of the United States, we find that Congress are invested with power "to exercise exclusive legislation in all cases whatsoever over such district (not exceeding ten miles square) as may, by cession of particular States, and the acceptance of Congress, become the seat of the Government of the United States, and to exercise like authority over all places purchased by the consent of the Legislature of the State in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings." Here, then, is given to Congress exclusive legislation over particular places, over the ten miles square, and over such places as they may purchase. This provision is expressly predicated on the right to purchase, and only limits that purchase by the consent of the States. If Congress have the right of purchasing territory from a State, how can gentlemen contend that they have not the right of purchasing territory elsewhere, if in their judgment they shall consider it well calculated to subserve the great interests of the Union?

It does appear to me that the right of acquiring territory must be included in the treaty-making power. As there are very few treaties which are not merely commercial that do not change the property belonging to nations; and if this principal power be contained in the treaty making provision, every incidental power is of consequence to be considered as fairly embraced within it, and I should deem this important authority as nugatory, if it did not give the President and Senate the right to accept a cession of territory. It is certainly not the right of the President and Senate to make such a cession conclusively binding; when it shall embrace powers within the pale of

those delegated to this House, it will require our sanction. Have we not also vested in us every power necessary for carrying such a treaty into effect, in the words of the Constitution, which gives Congress the authority to "make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this Constitution in the Government of the United States, or in any department or officer thereof?" It, therefore, appears very clearly to my mind that, according to the Constitution, the United States have a right to acquire territory. If they possess this right according to the Constitution, this measure cannot be said to be unconstitutional, and if not unconstitutional, as the gentlemen who have spoken against it, did not insist upon the point of inexpediency, some of them because they believed that ground was not open, and others because it was not tenable, will ultimately give it their support.

But another Constitutional objection is stated. Though the United States may acquire a valid title to the territory, the hills and the groves, the rivers and the lakes, it is alleged that they have no right to bring the persons inhabiting it into a state in which they shall enjoy the blessings of free government. My friend from Maryland (Mr. NICHOLSON) has observed that the article of the treaty relating to this object is most cautiously worded. If ever there was a precision of language calculated to avoid the imputation of an invasion of the Constitution, it is the language of this article. Its words are:

"The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

How are these people to be admitted? According to the principles of the Federal Constitution. Is it an open violation of any part of the Constitution? No; an express reservation is made by those who formed the treaty, that they must be admitted under the Constitution. Now, if admitted agreeably to the Constitution, it cannot be said to be in violation of it; and if not in violation of it, the fears of gentlemen are groundless. But, as I observed before, does not the Constitution refer to territory? Do not the United States possess territories now? Is the possession of territory confined by the Constitution to those they now hold? I believe not; for, in the Constitution, it is stated that "Congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States." Here is a clear recognition of territory belonging to the United States, and not merely of territory then held, but of territory which might in future be acquired by treaty or purchase. And if this territory be ceded to the United States, Congress have power, as soon as it is ceded, to make rules and regulations respecting it.

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There is another sound answer to the objections of gentlemen. This is property ceded to us, by the Power ceding it, with a particular reservation. I am not for quibbling about words or distorting terms. Taking the seventh article, and fairly considering it, it amounts to nothing more than a particular reservation—upon delivering possession of the territory, which I take to be the true meaning of the language which is used; and will any gentleman say that accepting the treaty, under this stipulation, will not be most advantageous to us? What individual State will be affected by it more than any other? Does it give the State of Massachusetts an advantage over New York? I would be glad to know what State it particularly affects, and in what way. "No preference," says the Constitution, "shall be given by any regulation of commerce or revenue to the ports of one State over those of another." In what way, under this treaty, is there any preference of one port over another? I would be glad to see it pointed out, and to be shown whether there is any preference of Delaware over Massachusetts, or of Virginia over Georgia. No. The Constitution adverts to States themselves; and that the distinction between States and Territories is bottomed upon reason. Whence the necessity of the distinction? When Territories grow into States, and become represented in the public councils, a majority of them may league together, and carry into effect regulations prejudicial to other States. Hence the Constitution provides that in all commercial regulations all the States shall be equally affected. But such a league cannot be affected by Territories, which have no Senators in the other branch, and in this only the voice, without the vote, of a single delegate. Independent of this consideration is this: if by any particular territorial regulation the territory of the United States is benefited, that territory being the common property of the United States, a public stock in which they all share, every State in the Union reaps alike the benefit.

These are my reasons for considering this measure perfectly Constitutional. I might dwell upon these reasons corroborative of this conviction; but these have been so ably enforced by my friends from Virginia and Maryland, and by other gentlemen, as to render more remarks superfluous. I cannot, however, avoid noticing the observation made yesterday and reiterated to-day, that we do not know whether we have a title to this territory, or whether it be not the purchase of so many acres of mere moonshine. I voted yesterday for some papers because I wished beyond all cavil or dispute to establish the Constitutional right of this House to call for papers, and from a respect to the opinions of some gentlemen who considered them important, not from any doubts of my own as to the validity of the title. The publicity of the cession of Louisiana by Spain, its former owner, to France, is too notorious; it has been noticed, dilated on, and recognised in the British Parliament, and in the Senate of the United States. We have not in our possession, it is true, the original Treaty of St. Ildefonso, nor the subsequent one, concluded between France and Spain at Madrid, which referred

to the former, for we were not furnished with duplicates of either, nor have we the testimony of the King of Etruria to prove that every stipulation contained in them was strictly complied with—poor man! he is no more. We have not sent a Commissioner to Madrid or St. Cloud to take the examination of the Ministers of Spain and France, to obtain their evidence, in order to verify the fact of all conditions having been performed by France on her part; but we have seen in the papers which record the transactions of the times, the arrival of the French Prefect of Louisiana at New Orleans announced. We have read his proclamation to the inhabitants of that country informing them of the cession, and, if I mistake not, our own Government has received through the proper channel intelligence of the same event, which has been duly published. All these circumstances combined are satisfactory to my mind on this subject. No fact in the history of nations can be more rationally proved, and gentlemen should recollect that they rely on the same kind of testimony (the letter of Mr. King to the answer of Lord Hawkesbury) when they confess themselves satisfied that England is agreed to this measure.

I would further observe, from the course which the debate has taken, that if we had taken all the papers and documents which the gentlemen desire, agreeably to the mode of argument which they have adopted, they might object to passing the necessary laws until we had got possession of the country, and at the same time object to our taking possession, without laws to authorize it. By thus arguing in a circle, as the logicians term it, they would most effectually defeat an object of the first importance to the community, and render the acquisition of an inestimable territory of as little value as the same extent of moonshine or starlight. With these impressions, believing the measure a good one, and consistent with the Constitution, I shall most cheerfully give my vote for carrying it into effect.

Mr. MITCHILL rose, and said, he entreated the indulgence of the Committee for rising at so late a stage of the debate, when seven hours have already been employed in the sitting of the day. And the reason of his request was, that such extraordinary doctrines have been advanced against carrying into effect the treaty with France which cedes Louisiana to our nation, and such repeated allusions have been made to the sentiments which he submitted to the House during the debate of yesterday, that he felt himself called upon to attempt a reply, and therein to show that the grounds taken by the gentlemen of the opposition are neither strong nor tenable. Although the subject is ample and copious, he should endeavor to condense his remarks, to so moderate a compass, as not to trespass long upon the patience of the Committee.

My colleague, said Mr. M., who opened the debate this morning, (Mr. G. GRISWOLD,) displayed in his speech the objections raised against the resolution on the table, so fully, that he almost exhausted the subject. For, in listening attentively to the reasoning of the gentleman from



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Virginia, who followed him, (Mr. J. LEWIS,) and of the other gentleman from Virginia, who spoke next, (Mr. GRIFFIN,) he could not discern that any new or additional matter of much consequence had been urged. Nor did he discover much more than a repetition in substance of his colleague's reasoning, in what had been urged by the gentleman from Mass., (Mr. THATCHER,) and the gentleman from Connecticut (Mr. GRISWOLD;) though the statement of their objections had received a form and coloring diversified according to the skill and ingenuity of each.

In the reply which he should make to the gentlemen in opposition to the appropriations for carrying the treaty into operation, he should not examine their arguments, severally, as they had been brought forward in the course of the debate. That mode would necessarily lead him into tedious and needless repetition. He should, therefore, endeavor to reduce all the arguments he had heard from the other side of the House into their elementary propositions, and having done so, to show that they were weak in their nature, and wrong in their direction. And even this view of the question would be much circumscribed, on account of the strong and masterly manner in which a part of the objections had been already repelled by his eloquent friend from Virginia, (Mr. J. RANDOLPH,) and by the impressive remarks of his other friend from Delaware (Mr. RODNEY.)

The gentlemen, Mr. Chairman, who resist the provisions necessary to the completion of this treaty, do so because they say it has been ratified by the President and Senate in open violation of the Constitution of the United States, and is, therefore, no treaty, but a nullity, an instrument void *ab initio*, not a part of the supreme law of the land, and consequently not binding upon Congress or the nation. They draw this bold and extraordinary conclusion from the style and meaning of the 3d and 7th articles of the treaty. The former of these, they say, is unconstitutional, because it proposes to annex a new territory, with its inhabitants, to our present dominion; the latter, because it abolishes for a term of years the discriminating duties of tonnage and impost within the ceded territory, giving a preference there to France and Spain, and leaving those duties unaltered in all the ports of the Union.

By the third article, it is agreed that the inhabitants of the ceded territory shall be incorporated into the union of the United States as soon as possible, according to the principles of the Federal Constitution, and be admitted to the enjoyment of all the rights, advantages, and immunities of the citizens of the United States; and in the mean time they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess.

On expounding this article, my colleague has declared that the President and Senate have no power to acquire new territory by treaty, and he argues that our people are to be forever confined to their present limits. This is an assertion directly contrary to the powers inherent in independent nations, and contradictory to the frequent and

allowed exercise of that power in our own nation. We are constantly in the practice of receiving territory by cession from the red men of the West, the aborigines of our country. The very treaty mentioned in the President's Message, with the Kaskaskias Indians, whereby we have acquired a large extent of land, would, according to this doctrine, be unconstitutional; and so would all the treaties which add to the size of our statute book, with the numerous tribes of the natives on our frontiers. According to this construction, all our negotiations so happily concluded with those people, whom we ever have uniformly acknowledged as the sovereigns of the soil, are nugatory, and to be holden for naught. He said, he was perfectly aware of the answer which would be made, that we held all our national domain, under Great Britain, by virtue of the treaty concluded at Paris in 1783. What, after all, was the amount of that cession by England? Certainly not a conveyance of a country which never was theirs, but rightfully belonged to the Indian natives; for it was, in its true construction, merely a *quit claim* of the pretensions or title to the land which the English had obtained by conquest and treaty from the French. By that negotiation, the United States obtained a bare relinquishment of the claims and possessions of those two powerful nations. But the paramount title of the original inhabitants was not affected by this. However contemptuously the rights of these rude and feeble tribes had been regarded by the Europeans, their descendants in these States had considered them with recognition and respect. Until the Indians sold their lands for an equivalent, the humane and just principles of the American Government acknowledged them to be the only legitimate owners. And the sovereignty acquired by treaty or purchase to our Government was derived from the title which the natives transferred to them as grantees in a fair bargain and sale. Such, Mr. M. argued, were the rules of true construction, and these rules admitted and acted upon by the Federal Government; and yet, according to the novel doctrine of this day, every treaty with the natives for parcels of their country, although hitherto deemed lawful, would be an unconstitutional act. According to this notion, every treaty for lands, held with the aborigines since the organization of the Government, was a violation of the Constitution. And thus this invaluable instrument, this bulwark of our liberties, had been violated perhaps twenty times or more, since we began to buy the surplusage of their hunting grounds. The Indian tribes are as much aliens as any other foreign nations. Their lands are as much foreign dominion as the soil of France or Spain. Yet we have gone on to annex the territories which they sold us, to our present territory, from the time we acquired independence, and no mortal, until this debate arose, Mr. Chairman, has so much as thought that thereby a breach of the Constitution was made. My colleague is surely entitled to great credit for his perspicuity in finding out that all our great and wise predecessors in administering this Government have been blunderers and

constitution-breakers. But, Sir, the just judgment on this subject is, that the Presidents and Senate of the United States have heretofore acted constitutionally in acquiring by purchase foreign dominions from the alien Indians. And by a parity of reasoning, they have acted not only constitutionally, but eminently for the interest of the country, in buying Louisiana from the white men, its present sovereigns.

But, independent of correct principles and steady precedent in favor of the acquirement of new territory, it may be worth the while to mention a few of the strange consequences which flow from the doctrine which the gentlemen of the other side of the House contend for. According to their reasoning, if by any force of the currents of the ocean, or any conflicts of the winds and the waves, a new surface of earth should emerge from the neighborhood of Cape Hatteras, it would be unconstitutional to take possession of it. Yet it appears to me, sir, very like an absurdity to say the United States would break their bond of union by erecting a light-house on it. Suppose that, by volcanic action, islands should be suddenly elevated from the bottom of the neighboring Atlantic, as they have repeatedly risen from the depths of the Mediterranean, would it be unconstitutional to take possession of them? So far from it, there would on the other hand be a duty in the Government to assume the dominion of all adjacent islands. Again; suppose for a moment that our present limits were full of people, would it be unconstitutional to purchase additional territory for them to settle upon? Must the hive always contain its present numbers, and no swarm ever go forth? At this rate we should, before a great lapse of time, arrive at a *plenum* of inhabitants, and if no new settlement could be obtained for them, the Chinese custom of infanticide must be tolerated to get rid of those tender little beings for whom food enough could not be procured, to rear them to manhood. And thus, when this *maximum* of population shall have arrived, there would be no Constitutional power to purchase and possess any of the waste lands on this or the other side of the Mississippi, for them to spread and thrive upon. A doctrine against which, he confessed, his understanding revolted.

Our Government having in this manner the right of acquiring additional territory, had very often exercised that right by actual purchases and by possessions and settlements afterwards. The whole of the recent State of Ohio and of the Indiana Territory was obtained and peopled in this manner. And in the settlement of limits both on the side of Florida and Nova Scotia, the principle had again and again been acted upon; and strange to tell, nobody, until this eventful time, had possessed acuteness enough to find out the error.

But the gentleman from Connecticut, Mr. Chairman, (Mr. GRISWOLD) contends that even if we had a right to purchase soil, we have no business with the inhabitants. His words, however, are very select; for he said and often repeated it that the treaty-making power did not extend to the

admission of foreign nations into this confederacy. To this it may be replied that the President and Senate have not attempted to admit foreign nations into our confederacy. They have bought a tract of land, out of their regard to the good of our people and their welfare. And this land, Congress are called upon to pay for. Unfortunately for the bargain, this region contains civilized and Christian inhabitants; and their existence there, it is alleged, nullifies the treaty. The gentleman construed the Constitution of the United States very differently from the manner in which Mr. M. himself did. By the third section of the third article of that instrument, it is declared, that Congress shall have power to dispose of and make all needful rules and regulations respecting the territory and other property of the United States, and nothing therein contained shall be construed so as to prejudice any claim of the United States or of any particular State.

In the case of Louisiana no injury is done either to the nation or to any State belonging to that great body politic. There was nothing compulsory upon the inhabitants of Louisiana to make them stay and submit to our Government. But if they chose to remain, it had been most kindly and wisely provided, that until they should be admitted to the rights, advantages, and immunities of citizens of the United States, they shall be maintained and protected in the enjoyment of their liberty, property, and the religion which they profess. What would the gentleman propose that we shall do with them? Send them away to the Spanish provinces, or turn them loose in the wilderness? No, sir, it is our purpose to pursue a much more dignified system of measures. It is intended, first, to extend to this newly acquired people the blessings of law and social order. To protect them from rapacity, violence, and anarchy. To make them secure in their lives, limbs, and property, reputation, and civil privileges. To make them safe in the rights of conscience. In this way they are to be trained up in a knowledge of our own laws and institutions. They are thus to serve an apprenticeship to liberty; they are to be taught the lessons of freedom; and by degrees they are to be raised to the enjoyment and practice of independence. All this is to be done as soon as possible; that is, as soon as the nature of the case will permit; and according to the principles of the Federal Constitution. Strange! that proceedings declared on the face of them to be Constitutional, should be inveighed against as violations of the Constitution! Secondly, after they shall have been a sufficient length of time in this probationary condition, they shall, as soon as the principles of the Constitution permit, and conformably thereto, be declared citizens of the United States. Congress will judge of the time, manner, and expediency of this. The act we are now about to perform will not confer on them this elevated character. They will thereby gain no admission into this House, nor into the other House of Congress. There will be no alien influence thereby introduced into our councils. By degrees, however, they will pass on from the childhood of republi-

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canism, through the improving period of youth, and arrive at the mature experience of manhood. And then, they may be admitted to the full privileges which their merit and station will entitle them to. At that time a general law of naturalization may be passed. For I do not venture to affirm that, by the mere act of cession, the inhabitants of a ceded country become, of course, citizens of the country to which they are annexed. It seems not to be the case, unless specially provided for. By the third article it is stipulated, that the inhabitants of Louisiana shall hereafter be made citizens; *ergo* they are not made citizens of the United States by mere operation of treaty. In confirmation of this construction, I will mention the second article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, concluded in 1794. It is therein stipulated that all British subjects who shall continue within the evacuated posts and precincts, should be considered, if they remained there longer than one year, to have abandoned all allegiance to the Crown of Britain, and to have made their election to become citizens of the United States: after which, by taking the oath of allegiance, they became instantly, by act of treaty, and by force of statute, citizens of the United States. I, therefore, consider the point already adjudged, when the Treaty of 1794 was decided on, that without an act of Congress aliens can be converted into citizens by the provisions of a treaty duly ratified by the President and Senate. In the treaty respecting Louisiana, there is happily no cause for alarm. This power of making citizens has not been exercised by the President and Senate; but at a future day may be used by Congress.

But I proceed to the second objection to the treaty. This is derived from an alleged unconstitutionality in the 7th article. By this, it is agreed that French ships coming directly from France, or any of her colonies, loaded only with the produce or manufactures of France or her said colonies, shall be admitted for twelve years into New Orleans and the other legal ports of entry in Louisiana, without being subject to any greater duty on merchandise or tonnage than is paid by our own citizens. The like covenant exists with regard to the ships, ports, and colonies, of Spain. This, they say, is a violation of a declaration contained in the ninth section of the first article of the Constitution, which declares that no preference shall be given by any regulation of commerce or revenue to the ports of one State over those of another.

In my view of the subject, Mr. Chairman, this prohibitory clause of the Constitution is meant as a check to the legislative power of Congress only, and by no means as a restraint upon the treaty-making power of the President and Senate. The Constitution leaves this very broad, and with great wisdom; it being improper and impossible to limit the negotiations which it might be expedient for this Government to make with other Governments. From the silence of the Constitution on the matter and extent of the treaties, it

has been argued, with great appearance of truth and fairness, that there is no Constitutional boundaries to the treaty-making authority. Hence, according to this mode of reasoning, the treaty-making privilege, being so vast and unlimited, is unfettered by Constitutional impediments, and like that great charter of freedom itself, originates from its own source, supreme laws of the land. A treaty, therefore, can scarcely be conceived to be unconstitutional; except in the case of outraging all common principles, rights, and feelings. On this ground, the commercial regulations of the 7th article are secured against all charges of unconstitutionality.

But, even if the treaty-making power was not so extensive and mighty, there would be no violation of any of its directions by granting the favors to Spain and France which the treaty stipulates. For the preference forbidden by the Constitution applies to States in the Union and equal members thereof. The domain we are about to acquire is not a State; for that is a sovereign and independent republic. Nor is it a province; this being an inhabited country, subdued by force of arms. Nor is it a colony; which is a sprout or scion, as it were, of the parent trunk. In its relation to us, it is a territory; a word signifying a peculiar and mingled idea of a country and inhabitants in the inchoate or initial condition of a republic. By the treaty, therefore, there is no preference given to one State over another, in any commercial regulations. The port of New Orleans is not a part of any State in the Union. The abolition of the discriminating duties in favor of the two European nations is confined absolutely to the ports of Louisiana. They have no preference in the ports of any of the States. Nor is there given to one an advantage over the other. In right construction, these indulgences are, in fact, a part of the purchase money; and, on account of this valuable consideration, Congress will have less money to appropriate and the nation thereby be saved from several millions additional debt. Our constituents have certainly great reason to rejoice at this. I, therefore, conclude that the apprehension and alarm expressed by the two gentlemen from Virginia (Mr. J. LEWIS and Mr. GRIFFIN) were wholly unfounded. There is no breach of the Constitution.

Notwithstanding all this, one gentleman says, the adoption of this seventh article will give "a death wound to the northern commerce of the United States;" and another declares, "that under it, France and Spain will gain a monopoly of the commerce and navigation of Louisiana, and the adjacent country." Mr. M. said he could not conceive how this should happen. Ever since the ratification of the Treaty of St. Lorenzo el Real, there had been a great resort of American vessels to the Mississippi. From New York, in particular, there had been large and frequent commercial intercourse, almost ever since that time. This had been rapidly increasing, and promised to be more and more important—and all this under a foreign jurisdiction, and while Louisiana belonged to Spain. Now that province was about to be changed into

a Territory of the United States. What an augmentation of tonnage and navigation might we not expect, when our own Mississippi should be whitened with our canvass! How eagerly would the Eastern and Middle States engage in a carrying trade, now rendered easy and free from impediment! It appeared to him that the transportation of the vast and valuable productions of both banks of that river would increase the demand for vessels. Greater capital will be called for to carry on the Louisiana commerce, and greater profits would result. Ship building, and all the attendant arts, would be promoted. The number of seamen would be augmented; who, trained up to maritime discipline in merchant vessels, might on any appearance of danger be transferred to the Navy, and serve as a bulwark and safeguard of the nation. Valuing most highly, as he did, the commercial prosperity of the United States, he considered that a new spring would be given to all its enterprise, by the acquisition of Louisiana. Our skill in commerce and dispatch in navigation would overmatch and bear down all the competition of the French and Spaniards. A more cordial union would be promoted between the Western and Eastern States; who would then be connected by the strong ties of commerce and interest, as well as of law and policy; and the jealousies, by which attempts had been made to divide them, and which had been raised to a mountainous magnitude, would be entirely levelled and done away. He was confident that all the Atlantic seaports, and, beyond all, the great commercial city which he represented, would participate largely of the benefits flowing from our complete sovereignty of the Mississippi and all its waters.

Mr. M. then applauded the mild and dignified conduct of an Administration, which had accomplished these great events by peaceful means, rather than war; and concluded, that if in the course of his observations he had not been successful in convincing the understandings of the gentlemen who thought differently from him, he had at least expressed some of the reasons which governed his judgment and would guide his vote on the proposition then depending. He hoped the resolution would be agreed to, for making immediate preparatory provision to take possession of Louisiana, according to the stipulations of the treaty.

Mr. J. RANDOLPH said that a sense of duty alone could have induced him to rise at that late hour. He wished to call the attention of the Committee to a stipulation in the Treaty of London. [Here Mr. R. read an extract from the third article of that treaty, whereby the United States are pledged not to impose on imports in British vessels from their territories in America, adjacent to the United States, any higher duties than would be paid upon such imports, if brought into our Atlantic ports in American bottoms.] In this case, he said, gentlemen could not avail themselves of the distinction taken by his friend from Maryland (Mr. NICHOLSON) between a Territory and a State, even if they were so disposed,—since the ports in question were ports of a State. The ports of New York, on the Lakes, were as much ports of that State, as

the city of New York itself; they had their custom-house officers, were governed by the same regulations, as other ports,—duties were exacted at them; and yet, under the article of the British Treaty which had been just read, British bottoms could and did enter them subject to no higher duties than were paid by American bottoms in the Atlantic ports. Mr. R. said that he did not mean to affirm that this exemption made by the Treaty of London was Constitutional, so long as a distinction prevailed between American and British bottoms in other ports. He had never given a vote to carry that treaty into effect—but he hoped the gentlemen from Connecticut—both of whom he believed had done so; one of whom, at least, he knew had been a conspicuous advocate of that treaty—he hoped that gentleman (Mr. GRISWOLD) would inform the Committee how he got over the constitutional objection to this article of the Treaty of London, which he had endeavored to urge against that under discussion. How could the gentleman, with the opinion which he now holds, agree to admit British bottoms into certain ports, on the same terms on which American bottoms were admitted into American ports, generally? Thereby making that very difference,—giving that very preference to those particular ports of certain States, which he tells us cannot constitutionally be given to the ports of New Orleans—although that port is not within any State, and, if his (Mr. GRISWOLD's) doctrine be correct, not even within the United States!

The gentleman from Connecticut professed a wish that this important discussion should be conducted with moderation and candor. In this sentiment he concurred. He was therefore altogether unprepared, after this preamble, to hear the gentleman from Connecticut represent the treaty in question as conceding the most valuable commercial privileges to France and Spain, and thereby sapping the very foundation of our own carrying trade. In the spirit of candor the stipulations in question would be viewed, not as conceding advantages in trade to those nations, but as securing them to ourselves. The article in question did indeed profess to grant, for a limited time, to French and Spanish vessels, laden with the products of their respective countries, admission into the ports of the ceded territory, on equal terms with our own ships. But, although nominally an advantage has been conceded to these nations, substantially their situation was changed for the worse, and the benefit in fact conferred on us. For what were our rights in these ports, and what were theirs, setting aside the treaty? The treaty then had rendered our situation more eligible and theirs less so. How then could gentlemen declare that it was calculated to injure our carrying trade? When by it our trade was put on the footing of absolute security, while that of France and Spain was admitted under considerable restrictions, enjoying in but one particular, and for twelve years only, an equality with ours. Their trade, before on so superior a footing, had descended from its pre-eminence in privilege, and given way to ours; and yet gentlemen warn us

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of the destruction of our carrying trade, and commercial prosperity, from the very source which has enlarged and secured both. The enemies of the treaty, therefore, are the advocates of the trade of France and Spain, and the enemies so far of our own. Since, by retaining things in their present posture, they would continue to those nations the superior advantages which they now enjoy in the ports of Louisiana, they would continue the restrictions which heretofore have fettered our commerce to that country, and they would refuse to put our trade on a footing superior to that of France and Spain.

But while gentlemen endeavor to alarm us with the idea of this formidable competition, I cannot, sir, feel a moment's apprehension from this quarter. Exclusive of the limitation of twelve years, and the restriction that their cargoes shall be of French or Spanish growth or manufacture, who that considered the present condition and future prospects of those countries could regard them as formidable commercial competitors? Was there not infinitely greater probability that the third article of the Treaty of London, which had no limitation as to time, and embraced our whole frontier on the side of Canada, would enable Great Britain to supply that frontier on terms as cheap, or cheaper, than we ourselves could?

With more candor, however, the gentleman has boldly avowed that he was among the number of those who, at the last session of Congress, were for pursuing "vigorous measures" for enforcing our rights in relation to the Mississippi. What those vigorous measures were, the House would be at no loss to determine. The gentleman had disdained to deny his principles. He would not now shrink from what he had then advocated, and Mr. R. said that he applauded him for it.

Mr. R. said that the gentleman had laid his premises a great way off, as if from the expectation that they would not be closely examined, and that therefore there would be nothing to oppose to the conclusions which he had drawn from them. He had stated a case scarcely supposable, and from it inferred the very principle in question. His whole argument was founded on presuming the very principle to be granted which was in dispute. The United States, says he, cannot incorporate into the Union Great Britain or France; and therefore they cannot unite to themselves the colonies of either nation. If the gentleman meant to prove the impolicy or impracticability of adding France or England to the United States, no one, he believed, was disposed to question the justice of his remark. But the position in contest was, can the United States constitutionally extend their limits? And this point in dispute the gentleman takes for granted by saying, that we cannot extend our dominion over England or France, and therefore cannot acquire dominion in any other country. That is, we cannot, because we cannot.

On the subject of expediency, the gentleman had undervalued the country west of the Mississippi, and had declared that he considered the barren province of Florida as more important to

us. Mr. R. asked if the country west of the Mississippi were not valuable, according to the gentleman's own statement, since it afforded the means of acquiring Florida, which he prized so highly, from Spain? He had no doubt of the readiness of that Power to relinquish Florida, in itself a dead expense to her—only valuable as an outwork to her other possessions, and now insulated by those of the United States—for a very small portion of the country which we claimed in virtue of the treaty under discussion. He said that he stated early in the debate, and had stated truly, that the limits of Louisiana were not actually defined; but, nevertheless, we were not without some light on this interesting subject. Thirty years before the Spaniards made their settlement of the Adais, the French had established themselves on the bay of St. Bernard or St. Louis—the nearest Spanish colony being then on the river Panuco, one hundred leagues to the west. The great river of the North, as nearly equidistant between the Panuco and bay of St. Bernard was—on the principle generally admitted by European nations forming establishments in savage countries—considered by France as the boundary between French and Spanish America, and accordingly we find it so laid down in many of the old maps. This boundary would embrace within the limits of Louisiana some very valuable dominions of Spain, including the rich mines of St. Barbe, and the city of Santa Fe, the capital of New Mexico. On the other hand, in virtue of her settlement of the Adais, Spain might claim the country as far east as the river Mexicana, and to the highlands dividing the waters of the North river from those of the Mississippi. Beyond them she could have no color of claim. In settling this important barrier, there were ample materials for the acquisition of Florida, still retaining to ourselves all the country watered by the Mississippi.

Another gentleman from Connecticut (Mr. DANA) had declared that if the inhabitants of the ceded territory were now, or should hereafter be, admitted into the Union, it would be a violation of that clause of the Constitution which relates to the establishment of an uniform rule of naturalization, since those people will be converted from foreigners to citizens, not in the mode prescribed by our naturalization law. Mr. R. wished to know in what manner the subjects of Great Britain settled around our western posts were admitted to the privilege of citizenship? Whether it was not done by treaty, and not in the mode prescribed by law? How did the people at Natchez become entitled to the rights of citizens? Although born out of our allegiance, the moment our Government was established over them, did they not possess of right a security for their lives and property? Could they not demand trial by jury in case of criminal prosecution? When he spoke of their acquiring the rights of citizens, he did not mean in the full extent in which they were enjoyed by citizens of any one of the particular States; since they possessed not the right of self-government, but those rights of personal lib-

erty, of personal security, and of property, which were among the dearest privileges of our citizens. A stipulation to incorporate the ceded country does not imply that we are bound ever to admit them to the unqualified enjoyment of the privileges of citizenship. It is a covenant to incorporate them into our Union—not on the footing of the original States, or of States created under the Constitution—but to extend to them, according to the principles of the Constitution, the rights and immunities of citizens, being those rights and immunities of jury trial, liberty of conscience, &c., which every citizen may challenge, whether he be a citizen of an individual State, or of a territory subordinate to and dependent on those States in their corporate capacity. In the meantime they are to be protected in the enjoyment of their existing rights. There is no stipulation, however, that they shall ever be formed into one or more States.

He denied the correctness of the doctrine advanced by the same gentleman, that the stipulation entered into by France, in time of war, to raise the Duke of Parma to the throne of Etruria, bound her to obtain a recognition of that King from every Power of Europe. All which concerned us in that treaty had been recited in ours with France. By the Treaty of St. Ildefonso His Catholic Majesty stipulates "to redeliver (*retroceder*) to the French Republic, six months after the full and entire execution of the conditions and stipulations herein relative to his Royal Highness the Duke of Parma, the colony or province of Louisiana." What these stipulations were is certainly known only to the parties themselves, for they never were officially made public, although we are at no loss to conjecture them. Nor are we at all concerned whether France has or has not complied with them. Because in a treaty executed at Madrid, six months after, in March, 1801, they show that they consider the former treaty as having passed the title to the country to France. The fifth article is as follows:

"This treaty being in pursuance of that already concluded between the First Consul and His Catholic Majesty, by which the King delivers to France possession of Louisiana, the contracting parties agree to carry into effect the said treaty," &c.

Spain, therefore, being satisfied as to the stipulations entered into by France in the Treaty of St. Ildefonso, declares herself in the second treaty ready to redeliver the country to her whenever she was ready to receive it, and Mr. R. said, he had it from high authority that the royal mandate to that effect was in the hands of the Minister of the French Republic near the United States, and would be forwarded to the existing government of Louisiana so soon as the treaty should be confirmed on our part.

Having departed considerably from the particular point on which he wished to be satisfied by the gentleman from Connecticut, who had spoken first (Mr. GRISWOLD,) he would again recall the attention of that gentleman to the third article of the Treaty of London, and request that he would reconcile its provisions to the doctrine which he

had advanced on the seventh article of the treaty then before the Committee.

The Committee now rose, Mr. SPEAKER resumed the Chair, and Mr. DAWSON reported that the Committee had, according to order, had the said message, treaty, conventions, and motion, under consideration, and come to several resolutions thereupon; which he delivered in at the Clerk's table, where the same were read, as follows.

1. *Resolved*, That provision ought to be made for carrying into effect the treaty and conventions concluded at Paris on the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic.

2. *Resolved*, That so much of the Message of the President, of the twenty-first instant, as relates to the establishment of a Provisional Government over the Territory acquired by the United States, in virtue of the treaty and conventions lately negotiated with the French Republic, be referred to a select committee; and that they report by bill, or otherwise.

3. *Resolved*, That so much of the aforesaid conventions as relates to the payment, by the United States, of sixty millions of francs to the French Republic, and to the payment, by the United States, of debts due by France to citizens of the United States, be referred to the Committee of Ways and Means.

The House proceeded to consider the said resolutions at the Clerk's table: Whereupon the first resolution being again read, was, on the question put thereupon, agreed to by the House—yeas 90, nays 25, as follows:

YEAS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, William Butler, George W. Campbell, Levi Casey, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, David Holmes, Samuel Hunt, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—William Chamberlin, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Nahum

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Mitchell, Thomas Plater, Joshua Sands, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Peleg Wadsworth, and Lemuel Williams.

The second resolution being again read, and amended at the Clerk's table, was, on the question put thereupon, agreed to by the House, as follows:

*Resolved*, That so much of the Message of the President of the twenty-first instant, as relates to the occupation and establishment of a Provisional Government over the Territory acquired by the United States, in virtue of the treaty and conventions lately negotiated with the French Republic, be referred to a select committee; and that they report by bill, or otherwise.

*Ordered*, That Mr. JOHN RANDOLPH, Jr., Mr. JOHN RHEA of Tennessee, Mr. HOGE, Mr. GAYLORD GRISWOLD, and Mr. BEDINGER, be appointed a committee, pursuant to the said resolution.

The third resolution reported from the Committee of the whole House, being again read, was agreed to by the House.

WEDNESDAY, October 26.

Mr. FINDLEY, from the Committee of Elections, to whom it was referred to examine the certificates and other credentials of the members returned to serve in this House, made a report in part thereupon; which was read, and ordered to lie on the table.

A memorial of sundry inhabitants of the two western counties of the Indiana Territory of the United States, was presented to the House and read, stating certain inconveniences and embarrassments to which the petitioners have been and are now subjected, in consequence of their connexion, under the same Government, with the eastern extremity of the said Territory; and praying that, whenever Congress in their wisdom may think proper to establish a Territorial Government for the district of country called Upper Louisiana, the petitioners and other inhabitants of the said two western counties may be connected under the same Territorial Government.

*Ordered*, That the said memorial do lie on the table.

The SPEAKER laid before the House sundry depositions and other papers, transmitted to the Clerk from Fluvanna county, in the State of Virginia, touching the election of Thomas Mann Randolph, one of the members returned to serve in this House, for the said State; which were read, and ordered to be referred to the Committee of Elections.

Mr. TENNEY, from the Committee of Revision and Unfinished Business, to whom it was referred to examine the Journal of the last session, and report therefrom such matters of business as were then depending and undetermined, made a report in part thereon; which was read, and ordered to lie on the table.

*Ordered*, That the Committee of Ways and Means, to whom was yesterday referred "so much of the treaty and conventions, lately negotiated with the French Republic, as relates to the payment by the United States of sixty millions of

frances to the French Republic, and to the payment by the United States of debts due by France to citizens of the United States," have leave to report thereon by bill, or bills, or otherwise.

Mr. J. RANDOLPH, from the committee last mentioned, presented a bill for carrying into effect the conventions of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic; which was read twice, and committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, and for the temporary government thereof;" to which they desire the concurrence of this House.

The said bill was read twice, and committed to a Committee of the Whole House to-morrow.

#### AMENDMENT TO THE CONSTITUTION.

The House resolved itself into a Committee of the Whole on the state of the Union, on the proposed amendment to the Constitution.

Mr. CLOPTON addressed the Chair as follows: Mr. Chairman, I beg leave to solicit the indulgence of the Committee a few minutes. Having had the honor to propose an amendment to the report of the select committee, and having failed of obtaining it, I feel a wish to state my reasons why I am in favor of the principle of the provision contained in the report; the principle of designating the persons voted for as President and Vice President. Sir, the propriety, the eligibility, and the importance of such a provision, appear to my mind so plain, and so obvious, as scarcely to require a single argument to support it. Nevertheless, plain and obvious as I think it is, it does not meet with universal approbation; inasmuch as it contemplates a material alteration in one of the provisions of the Constitution, and an important provision too, inasmuch as it may involve consequences of vast moment to the happiness and tranquillity of this country. I trust the Committee will pardon me for troubling them with a statement of the principal grounds of my opinion in favor of the resolution. I promise the Committee that I will not utter a single word but what applies directly to the principle of the resolution. Every sentence shall be a reason why I am in favor of that principle. I am in favor of the resolution because it is perfectly congenial with the most essential principles of our Government, even the principle of representation. For, sir, in a Government constituted as our Government is, wherein all the constituted authorities are the agents of the people, the suffrages given for the election of those agents ought ever to be a complete expression of the public will, and should therefore be directed immediately to those persons in whom the Electors intend to place confidence, as their agents, in the particular offices for which the elections are made. An election, therefore, which may, from the mode of holding it, ter-



minate ultimately in the appointment of a different person to an office, than the one originally intended for it by a majority of the Electors, cannot be said to be such complete expression of the public will. When one person is intended for an office and another person actually obtains it, such election, if indeed it can properly be called an election, is not conformable to the will of those by whom it was made. No sir, it is contrary to it. The effect resulting from the act of the majority, in such a case, would be completely at variance with the will of that majority in performing the act. Such an event would indeed exhibit a case in which the will of the majority would be defeated by the act of the majority in the very exercise of its elective franchise. I think, sir, I can prove that such a consequence may result from the present mode of choosing the President and Vice President of the United States. I think I can prove it in the following manner: I will suppose that four persons, A, B, C, and D, shall be held up for candidates. I will then suppose that ninety-five Electors shall prefer A for President, and vote for him with the intent to elect him to that office, and that the other eighty-one Electors shall prefer B for President and accordingly vote for him. I will suppose also that, of the ninety-five Electors, who prefer A for President seventy-five shall also prefer C for Vice President, and give him their votes with that intent, and that the other twenty Electors shall prefer D for that office. Lastly, I will suppose that of the eighty-one Electors who prefer B for President, twenty-five shall also prefer C for Vice President, and accordingly vote for him; and that the other fifty-six shall prefer D for that office. Now, because seventy-five of those ninety-five Electors who prefer A for President and twenty-five of those who prefer B for President, are also willing that C should be Vice President, and vote for him with that intent, C actually becomes President with one hundred votes, not one of which was given to him for that purpose. Thus the will of ninety-five, who compose a clear decided majority of the whole number of Electors, is defeated by seventy-five of their own votes, together with the other twenty-five votes given to C; that is to say, the will of the majority is defeated by the act of the majority, in the very exercise of its electoral capacity. But, Mr. Chairman, if the proposed amendment should be adopted, this anomalous effect cannot then result; for, as each of the candidates would then be designated for the particular office for which he was intended, ninety-five votes would be given to A for President; eighty-one would be given to B for President; one hundred to C for Vice President; and seventy-six to D for Vice President. So that A would then be elected President, according to the real will and intention of ninety-five Electors, by a majority equal to the difference between eighty-one and ninety-five; and C would be elected Vice President agreeably to the will and intention of one hundred Electors, by a majority equal to the difference between seventy-six and one hundred.

Mr. Chairman, such an event as that which I

have stated as a possible, and, perhaps, a probable result, from the present mode of choosing the President and Vice President of the United States, must be a serious evil. In no point of view can I contemplate it, in which it does not present itself as an evil of considerable magnitude. For, sir, however respectful the public attention might have been towards the person who thus becomes Chief Magistrate of the Union, contrary to the intention of the Electors, contrary to the public sentiment, contrary to the public will, it cannot be expected that with the acquisition of the office, under these circumstances, he will receive the public confidence. It is not the nature of Governments as purely elective as this Government is, to produce a spirit altogether acquiescent in elections of this sort. It is not in this country, where the elective principle is so highly revered, so warmly cherished, and so dearly valued, that we are to look for a disposition in the public mind to feel itself satisfied with the introduction of agents into office, who are not the objects of its choice. Even in respect to departments of inferior consideration, this disposition is not to be found; much less can it be expected to appear and display itself, should the great and important duties of the Chief Executive Magistrate, by an appointment thus brought about, be devolved on a person not contemplated for that station. It is, indeed, the nature of elective representative Governments to produce a very different spirit, a spirit of dissatisfaction, under such appointments. Or, more properly may it be said, sir, that in all such Governments there is a spirit coeval in existence with the Governments themselves, which disposes the people rather to withhold their affection from public functionaries, than to bestow it upon them, when introduced into office after this manner. It is inseparable from the people of all countries, where the elective system prevails in any degree. Its influence and activity, ever commensurate with the degree of perfection which pervades that system, proportionably diffuse themselves through the great body of the people. Wherever genuine rational liberty most abounds (and I believe, sir, that so far from abounding, it cannot exist at all, where election and representation do not exist,) there this spirit abounds in like degree; there it is to be traced through all the departments of life; there it animates the mass of the community; there it spreads. It extends and enlarges its sphere of action through the whole circle of society, and that influence is exerted to a degree of prevalence in proportion as the principles of that liberty actuate the public mind. It is not the spirit of a wild and furious licentiousness, thirsting for the destruction of law and of order. It is not a spirit which aims to loosen the bands of society, or to weaken the sanctions of law. No, sir, it breathes quite a different wish. It believes that the strength of the one and the efficacy of the other of these essential means of human happiness are best secured in the agency of those organs of public authority whose creation springs from the public will; and, believing this, wishes that the elective principle in its practical operations may be directed

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through the channel of that public will. It believes that such direction of this great, this important, this inestimable principle is necessary to give full effect to the representative system, on which depends the attainment of all the great *desiderata* of a free Government—everything truly desirable in Government. And where, sir, does this spirit more abound than in America? Where does it so much abound? Is it not the pride and the boast of Americans? Sir, I believe it is. I believe, too, it is a laudable, an honorable pride. It is a great, leading, characteristic sentiment which pervades the American mind—which dignifies and adorns this country—which constitutes the very germ of true American greatness. It is that which operates as the source of everything which spreads forth the lustre and the glory with which this nation is surrounded. It is the life, the soul, of the Republic. It is that vivid flame which warms and cherishes, and gives to the body politic its just and proper and natural impulse, and directs its course towards the true end of the social institution—the universal good. I believe, therefore, Mr. Chairman, it must be a consideration of primary importance that the modes of election be so established that in their event they may always secure a full expression of the public will, and the appointment of all public agents conformably thereto.

With these impressions on my mind, Mr. Chairman, and from the evident risk attendant on the present mode of choosing the President and Vice President of the United States, that the election of those high and important officers of the Government may terminate contrary to the public will, I am thoroughly convinced of the expediency of the proposed amendment to the Constitution, directing a designation of them in the electoral votes.

Sir, the case which I had the honor to state to the Committee as possibly, and perhaps probably, resulting from the present mode of election, is a case wherein a decided majority of the electoral votes shall have been given to one of the candidates, though not according to the intention of the Electors who gave them. But, sir, what can we expect to be the public sensation in a case wherein an equal number of votes shall have been given to each of two candidates, and this House shall finally decide the election by rejecting that candidate for the Presidency, who was intended for it by a majority of the people and of the Electors, and choosing the other candidate who was not so intended for that office? The first mentioned circumstance of such a case we have already witnessed; and, sir, should I mistake the circumstance, were I to say we had mournfully witnessed it? And what, sir, would have been the condition of these States, if, when assembled at this Capitol, by their Representatives, they had continued so divided in their votes that no actual election of a President had taken place, although the public sentiment had been clearly and unequivocally pronounced in favor of one of the candidates? There was every reason to believe, sir, that gloomy indeed would have been the prospect!

A long train of evils incalculable in their consequences could hardly have failed to overspread the face of this delightful country! Indeed, sir, what would have been the ultimate issue it is not within the compass of human foresight to divine. This great, this flourishing country, which at this time pours forth innumerable streams of prosperity, displaying in vast and rich variety every means of individual happiness, every means of national happiness, and every means of true national glory, instead of exhibiting the present pleasing, animating prospect, before this period might have been enveloped in dark and dismal clouds of confusion, disorder, and political distraction! The bands of society being thus in a manner broken asunder, and all the angry turbulent passions incident to man left unrestrained, what fatal consequences might be expected to follow! What violence of party, what rage of ambition, what dreadful commotions, might be expected to agitate this then unfortunate country! And, sir, is there a single American living whose blood is so far chilled with indifference concerning the fate of this country, that he would not be stricken with awful alarm at the prospect of such an event—an event tending directly to produce so complete a state of anarchy with all its concomitant calamities? No, sir, no! I would hope, I would persuade myself, Mr. Chairman, there is not one. Nevertheless, although the spirit of patriotism might have predominated over that of party in the case which has happened—determined the election, and determined it conformably to the public sentiment—yet, sir, have we any infallible security that, in all future times, should any similar case occur, the same regard for the peace, the tranquillity, and happiness of this great community will retain the ascendancy and arrest the evil? The mournful experience of ages, transmitted to us through the page of history, teaches an awful lesson that such security cannot be expected. I am seriously impressed with this sentiment, therefore, that it behooves us to let it be a work of the present day to guard against so great an evil by removing from the Constitution the means whereby it may be accomplished.

But suppose, sir, in the case alluded to, the election had terminated otherwise than it did, is there a single man in existence who believes that such election would have been hailed by the public voice with any degree of complacency? Innumerable, sir, and strong were the evidences of a contrary operation on the public mind; innumerable and strong were the evidences that such an event would have been very unfortunate—would have produced much more of the public indignation than of the public approbation—although it would have been better than no election at all. And there can be no manner of question, sir, that if, in any future election, a similar case should occur, and such should be the ultimate event, whoever might be the candidates, a very disagreeable effect would be wrought upon the public mind; that whenever such an event should happen, it would call forth the public indignation.

Should it be objected, Mr. Chairman, that even if the proposed amendment should be adopted and become a part of the Constitution, it will not make such provision as would, in all future elections, secure a majority of electoral votes to be given to some one or other of the candidates, and thereby preclude the necessity of ever again resorting to a vote of this House for a final decision; it must be acknowledged that no provision whatever can be made so as to have that operation; but if, in any election, no person should have a majority of electoral votes, a Legislative decision in such a case cannot possibly be attended with the same disagreeable consequences as such a decision might be attended with in a case happening under the existing mode, similar to that which has been cited; for, if the amendment should be adopted, inasmuch as each of the candidates would then be designated by the electoral votes for the particular office for which he was intended, and consequently thus pointed out as being so far the objects of public choice, on whomsoever of them the ultimate election should fall, the successful candidate, I apprehend, would be more acceptable to the public mind than any person could be who had not been contemplated for President by any of the Electors. Such public approbation I consider, sir, as a circumstance of incalculable importance in such an election. I hope, therefore, the resolution will be agreed to, and obtain the sanction of a full Constitutional majority.

The Committee rose, and reported a resolution thereupon, which was twice read, amended, and agreed to by the House, as follows:

*"Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled, two-thirds of both Houses concurring, That the following article be proposed to the Legislatures of the different States as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the said Legislatures, shall be valid, to all intents and purposes, as part of the said Constitution, viz:*

*"In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; of whom, one at least shall not be an inhabitant of the same State with themselves. The person voted for as President having a majority of the votes of all the Electors appointed, shall be the President; and if there shall be no person having such majority, the President shall be chosen from the highest numbers, not exceeding three, on the list for President, by the House of Representatives, in the manner directed by the Constitution. The person having the greatest number of votes as Vice President shall be the Vice President; and in case of an equal number of votes for two or more persons as Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution."*

THURSDAY, October 27.

Another member, to wit: ABRAM TRIGG, from Virginia, appeared, produced his credentials, was qualified, and took his seat in the House.

*Ordered,* That the resolution agreed to yesterday, in the form of a concurrent resolution of the two Houses, proposing an article of amendment to the Constitution, respecting future elections of President and Vice President, be recommitted to a Committee of the whole House to-day.

A memorial and petition of the Illinois and Ouabache Land Companies was presented to the House and read, praying that Congress will consider and ultimately decide on their memorial presented to this House on the eleventh of March, one thousand eight hundred and two, in such manner as may be deemed equitable and proper.

*Ordered,* That the said memorial and petition do lie on the table.

*Ordered,* That the Committee of Ways and Means, to whom was referred so much of the treaty and conventions lately negotiated with the French Republic as relates to "the payment by the United States of debts due by France to citizens of the United States," have leave to report thereon by bill or bills, or otherwise.

Mr. RANDOLPH, from the committee last mentioned, presented a bill making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the convention of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. LYON observed that the country in which he lived had been for some time supplied with salt and lead from the Louisiana country, on which articles considerable and burdensome duties are imposed. For the purpose of liberating the citizens from these duties, he moved a resolution, declaring it expedient that provision should be made for suspending the collection of all duties on articles imported into the ports of the United States from the territory ceded to the United States by the Louisiana convention, with the view of having it submitted to the Committee of Commerce and Manufactures.

*Ordered,* That it lie on the table.

#### AMENDMENT TO THE CONSTITUTION.

Mr. J. CLAY, after observing on the proceedings of yesterday in respect to the future mode of election of President and Vice President, said he should move an amendment to strike out the word *three*, and insert the word *five*.

Mr. DAWSON said that a motion, in substance, to the same purpose, had been presented to the House yesterday, and rejected. He felt no anxiety whether the House, in case of equal votes for President and Vice President, was confined to three or five; but it was his wish that the least alteration possible should be made in the Constitution, as first framed. Under this consideration, the insertion of the word *three* was, in his opinion, the least of the alterations proposed. He thought that making the choice out of *five*, was guarding against what might perhaps never happen. He should, however, feel little difficulty in voting for either.

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Mr. NICHOLSON declared that it was unnecessary to take up the time of the Committee. The gentleman who moved the amendment tells us that *five* is the least deviation. He could not agree to this. It did not in the least affect the choice of a Vice President.

Mr. SMILE considered it a duty due to himself to assert that his sentiments through the whole of this business were uniform. He thought that he could discern that the Chairman was surprised at the deviation from the original opinion of some gentlemen. His present sentiments he had declared before the select committee, and to these he still adhered. He said he would vote in any way, so that an opinion might be had; and the less they deviated, the safer they were. He had no object in view but the public good. He was extremely tenacious in altering the Constitution, but, without the spirit of accommodation, they could never agree upon a number. If one gentleman, to indulge himself, persisted in the number *three*, and others of *five*, he knew not when an opinion could be obtained.

Mr. ELLIOT said that he would engross the attention of the Committee but a moment, and he would not ask for that moment if he did not think that what he had to offer would facilitate an accommodation. Some gentlemen, he observed, were so tenacious of the number being *five*, that, unless they were indulged, they would never make an amendment. He would therefore vote for that number, in order to promote his desired accommodation.

The question was taken for inserting the word *five*—ayes 59, noes 47.

On motion, the Committee rose, and the SPEAKER resumed the Chair, when the question was again put and carried. It was then moved that the amendments be engrossed, and that a third reading be had to-day. Agreed to.

#### LOUISIANA TREATY

The House resolved itself into a Committee of the Whole on the bill from the Senate, entitled; "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, and for other purposes."

The bill having been read, by paragraphs, as follows:

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territories ceded by France to the United States, by the treaty concluded at Paris, on the thirtieth day of April last, between the two nations; and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the army and navy of the United States, and of the force authorized by an act passed the third day of March last, entitled, "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary; and so much of the sum appropriated by the said acts as may be necessary, is hereby appropriated for the pur-

pose of carrying this act into effect; to be applied under the direction of the President of the United States.

SEC. 2. *And be it further enacted,* That, until Congress shall have made provision for the temporary government of the said Territories, all the military, civil, and judicial powers, exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct.

Mr. J. RANDOLPH said he was apprized that the bill was of such a nature as seemed to delegate to the President of the United States a power the exercise of which was intended to have but a short duration; he was also aware that some such power was necessary to be vested in the Executive, to enable him to take possession of the country ceded by France. But he could conceive no cause for giving a latitude, as to time, so extensive as that allowed by the second section, which says, that "until Congress shall have made provision for the temporary government of the said territories, all the military, civil, and judicial powers, exercised by the officers of the existing government of the same, shall be vested in such person or persons, and shall be exercised in such manner, as the President of the United States shall direct." If we give this power out of our hands, it may be irrevocable until Congress shall have made legislative provision; that is, a single branch of the Government, the Executive branch, with a small minority of either House, may prevent its resumption. He did not believe that, under any circumstances, it was proper to delegate to the Executive a power so extensive; but if proper under certain circumstances, he was sure it was improper under present circumstances. As he conceived it proper to deal out power to the Executive with as sparing a hand as was consistent with the public good, he should move an amendment to substitute in the place of the words "Congress shall have made provision for the temporary government of the said territories"—these words, "the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress." So that if Congress shall make provision for the government of the territory at any time during the session, the power of the President will cease, and at any rate at the expiration of the session. In other words, this amendment will compel Congress to take early measures for reducing this enormous power, delegated to the Executive, by the establishment of a government for the people of Louisiana.

Mr. R. GRISWOLD moved to strike out the whole of the second section, which would supersede the motion of the gentleman from Virginia. He made this motion to obtain an explanation respecting the nature and extent of the delegated power. That section provides "that until Congress shall have made provision for the temporary government of the said territories, all the military, civil, and judicial powers, exercised by the officers of the existing government of the same, shall be vested in such manner, as the President of the

'United States shall direct." I wish to know, said Mr. Griswold, whether any gentleman can inform me what the military, civil, and judicial powers, exercised by the officers of the existing province are; for we are about to confirm them, and direct their execution by the authorities of the United States.

It is probable that some of them may be inconsistent with the Constitution of the United States. We have certain restrictions on powers exercised under it. For instance, that the *habeas corpus* shall not be suspended in cases of invasion or rebellion, and a variety of other restraints. It is for this reason that I think we ought to have some knowledge of the powers exercised in Louisiana, before we confirm them in the lump; and in order to obtain this information, I move to strike out the section.

Mr. ELLIOT rose to second the motion of the gentleman from Connecticut, and to express his coincidence in the sentiments of that gentleman on this subject. He would never consent to delegate, for a single moment, such extensive powers to the President, even over a Territory. Such a delegation of power was unconstitutional. If such a provision as that contemplated by the section were necessary, it became Congress itself to enter upon the task of legislation.

Mr. J. RANDOLPH had hoped that some other member would have given the gentleman from Connecticut the satisfaction he asked in relation to the provisions of the section proposed to be stricken out. No one having risen, he would do it himself as well as he was able. That gentleman asks whether we know the civil, military, and judicial powers that subsist in Louisiana; and contends that it is necessary we should know them before they are transferred to the Executive of the United States. If the section were to stand as it now does, Mr. R. said he would be as unwilling as the gentleman from Connecticut to agree to it. But, with the proposed limitation, he saw no substantial objection to it. He was one of those who did not know with precision what the subsisting civil, military, and judicial powers exercised in Louisiana were; and yet he saw not the difficulty which the gentleman had stated, as to the temporary transfer of the powers to the Executive with the limitation proposed—And wherefore? Because, in the nature of things, it was almost impossible to take possession of the country without the exercise of such powers at some point of time, and if they should be exercised but for a single moment, such exercise would be as hostile to the principles of the gentleman as the exercise of them for a whole year.

I ask, said Mr. R., whether if the country should be taken possession of on the principles advocated by the gentleman on a former day, these powers would not all have attached to the Executive? Suppose instead of assuming the civil government of the territory, it had been taken possession of by storm, by an army of 40 or 50,000 soldiers—Will the gentlemen contend that under such circumstances, the privilege of the *habeas corpus* or trial by jury would have been invaded? Un-

doubtedly not. If the gentleman will advert with precision to the first section, he will perceive that it is contemplated to take possession in such a manner as will give the United States security in that possession. For though we might not doubt the disposition of the Government of France to give us a secure possession, or apprehend difficulty from any other quarter, yet it would be recollected that there were citizens or subjects in the territory requiring some government. It was not impossible that on taking possession there may be some turbulent spirits, who, having at heart the advancement of personal schemes, may be disposed to resist. It would be unwise then in Congress to delay making the requisite provision, until necessity claimed it, and until, perhaps, after Congress had adjourned.

Gentlemen will see the absolute necessity of the path chalked out by the Senate. They will see the necessity of the United States taking possession of the country in the capacity of sovereigns, in the same extent as that of the existing government of the province. After having taken possession, and being in the secure enjoyment of the country, it will be extremely proper to guard against any apprehended Executive invasion of right. This step will then be politic, and it will be observed that the section as amended enjoins this duty upon Congress. If, however, the gentleman from Connecticut will show us any way in which the country may be taken possession of, with security, and by which the people may enjoy all the rights and franchises of citizens of the United States immediately, I shall be happy to give it the sanction of my vote. But to my mind this appears impossible.

Mr. GRISWOLD thought it extraordinary that the gentleman from Virginia should call upon him to propose a plan for avoiding the difficulties that would apparently result from the system proposed by the bill; when it had only that day been laid upon their tables, and had been yesterday refused to be referred to a select committee; and of consequence, no time for reflection had been allowed. Under these circumstances, it was indeed extraordinary that he should be expected to propose a plan. He confessed he was unable to offer any. To do it would doubtless require time and deliberation. It was sufficient for him that the bill infringed the Constitution. By the second section it is proposed to transfer to the President of the United States all the powers, civil, military, and judicial, exercised at present in that province. What are those powers? No gentleman is able to inform me. It may be presumed that they are legislative; the President, therefore, is to be made the legislator of that country: that they are judicial; the President, therefore, is to be made judge: that they are executive, and so far they constitutionally devolve on the President. Hence we are about making the President the legislator, the judge, and the executive of this territory. I do not said Mr. G., understand that, according to the Constitution, we have a right to make him legislator, judge, and executive, in any territory belonging to the United States. Though, therefore,

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on this occasion I feel no jealousy of the abuse of the powers conferred on the President, yet I cannot agree to them, because I consider them repugnant to the Constitution.

The argument that the powers are necessary, though unconstitutional, is no argument with me. If gentlemen can so explain the section, as to show to the satisfaction of the Committee that it is competent to this House to transfer to the President all these powers, I shall have no objection to the section; but until this is done, it is my duty to vote for striking it out. And though it is impossible for me, at this moment, to devise a plan for overcoming these difficulties, yet I trust, if time be allowed, there will be found wisdom enough in the Committee to devise one. To the first section, authorizing the taking possession of the country, so far as I can understand it, I can see no objection.

Mr. NICHOLSON was opposed to striking out the second section, as he did not perceive the evils contemplated by the gentleman from Connecticut. The question is, whether we shall take immediate possession of this country, or wait till this body shall have time to form such a government as shall be hereafter likely to render the people happy, under laws according to the provisions of the Constitution? I think, said Mr. N. it will be injudicious to delay taking the possession, until such a government shall be formed. The only question then that can be started is, whether the second section of this bill violates the Constitution. On this point I differ entirely from the gentleman from Connecticut. I do not see in it any violation of the Constitution. The gentleman supposes that by adopting the provisions of the second section we shall vest all the civil, military, and judicial powers of the existing Government of Louisiana in the President. But it clearly is not so. We vest in him the appointment of the persons who shall exercise these powers, but we do not delegate to him the exercise of the powers themselves. Is there any difference between this, and the provisions of the ordinance of 1787, which relates to territorial governments? By that ordinance, and I have never heard its constitutionality questioned, all the civil, military, and judicial powers are vested in such persons as the President may appoint. Judicial powers are vested in persons appointed by the President; so with respect to the civil and military powers; and the legislative powers are vested in a body, part of which is appointed by the President. I am, with other gentlemen, unable to say what are the nature and extent of the powers exercised by the present Government of Louisiana. But we must authorize the taking possession of the country, and we must on such an event, authorize the exercise of these powers, viz: the exercise of military power by an army, the judicial powers by judges, and the other necessary powers by other officers; and unless Congress shall divest the President of the power of appointing these officers, it will be vested in him by the Constitution. I repeat it; these powers are not delegated to the President, but to such persons as he may appoint. I know the old axiom,

*qui facit per alium facit per se*; but it does not apply in this case. It is possible that these appointments may be conferred on persons in the ceded country, or the persons may be sent from the Atlantic States, or from the Mississippi Territory; but be this as it may, some persons must be appointed to exercise these powers until Congress shall establish a new government.

Mr. MITCHILL expressed his wish that the section of the bill might stand. To strike it out would be to make void all the proceedings respecting the province of Louisiana, on which Congress had been engaged with so much care and diligence. We had purchased the country, and made arrangements to pay for it; and now, with the consent of France, possession is to be taken; when behold! an objection is made to that part of the intended statute which confers on the President the power to occupy and hold it peaceably for the nation.

The motion to obliterate the second section of the bill, is grounded on the danger to be apprehended from an enlargement of the Presidential power. And it is alleged that if the section should receive the vote of the House, all military, civil, and judicial authority would be thereby centered in the Executive. It was declared to be unconstitutional in Congress to delegate such vast unlimited authority; and, even if the Constitution permitted it, there would be great indiscretion in the delegation of such power.

For his own part, Mr. M. said, he was strictly tenacious of the rights reserved to the people. He was equally regardful of the privileges belonging to the States. He was a zealous advocate too, of the powers secured to the National Legislature by the Constitution. In taking possession of the ceded country, in the manner proposed by the bill, there was no violation of the rights of the citizens, no usurpation of the privileges of the republics, nor any infraction of the great national deed of settlement. The jealousy expressed by some gentlemen against the accumulation of excessive power in the Chief Executive Magistrate was excited by slight circumstances. Mr. M. was totally averse to the creation of a dictator; nor did he discern any thing tyrannical or depotic lurking in the paragraph which had been spoken of in such odious terms. The mischief complained of was rather imaginary than real.

But, let it be examined fairly what Congress are meditating to do. The third section of the fourth article of the Constitution contemplates that territory and other property may belong to the United States. By a treaty with France the nation has lately acquired title to a new territory, with various kinds of public property on it or annexed to it. By the same section of the Constitution, Congress is clothed with the power to dispose of such territory and property, and to make all needful rules and regulations respecting it. This is as fair an exercise of Constitutional authority as that by which we assemble and hold our seats in this House. To the title thus obtained, we wish now to add the possession; and it is proposed that for this important purpose, the

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President shall be duly empowered. There is no person in the nation to whom this can be so properly confided as to the President. Besides, being the head of the Executive department, he is indebted for his promotion to that exalted place to the suffrages of electors chosen from the people. And the people of the United States can have no serious or solid objection to the part of the bill now proposed to be expunged, which authorizes the man of their confidence and choice to take possession of Louisiana in their behalf.

It has been said that all civil, military and judicial powers are to be consolidated and confounded in the President. There is no such thing meditated, Mr. Chairman, in the bill. The President is not to officiate in either of those capacities personally in Louisiana. He is only to direct in whom the authority now existing in the French or Spanish officers of the province shall vest when our Government shall have gained the possession of it; and in what manner that authority so transferred shall be exercised by those to whom it shall be by him delegated. In all this, the President does not so much himself act, as he puts other persons in a condition to act. In the accomplishment of the object the President would indeed provide for the performance of civil, judicial, and military duties; but in effecting these he would only appoint the others and give directions as to their manner of proceeding, but he would not himself be either a legislator, a judge, or a colonel of the island of New Orleans. He was in short only the organ by which certain acts necessary to be done, and incidental to gaining the actual possession of the country, could be performed. And if ever the plea of adopting measures *de necessitate* could be made, it was on such an occasion as this.

Mr. M. then drew a parallel, which he hoped would be agreeable to the opposers of the bill, between the powers intended to be vested in the President of the United States and those which, according to the law and usage of England, were inherent in the King. According to the true theory of the British constitution, the Sovereign was the chief judiciary officer and president in his courts; he was also the head of the established Church, and of course the great spiritual President of the realm; in him, also, were deposited the important concerns of war and peace. The writs were tested in his name, yet it was notorious that he nowadays never went personally and took a seat on the bench. He did not take upon himself the performance of sacerdotal functions, nor act the part of a bishop or archdeacon. Neither did he go forth into the field of battle, and do the duties of a general or a quartermaster. Yet the King had a qualified superintendence over all these great departments of the public business, which it was not expected he should perform in person, but cause to be performed by fit persons of his appointment. So it was with the President in the present case. He was not supposed by anybody to be sent into Louisiana to act personally, in either a civil, military, or judicial character. The spirit and meaning of the bill went

no further than to authorize him to employ such men as he should judge capable and worthy of those several kinds of trusts. And so far, Mr. M. said, in the present case, he was entirely willing to delegate the power by law. It would not be permanent, but *ad interim* only. There was a provision in the section against the perpetuity of this power, by the resumption of it as soon as Congress should have collected information enough to establish a temporary government. And this might in all probability be done during the present session. Mr. M. owned, however, that he should think the bill rather more complete if there was a limitation in it to the amount of expense which would be necessary to carry it into effect, but as he observed a reference in it to the act passed on the 3d of March last, which act contained a limitation as to the sum of money which might be expended, he thought there was no need of moving an amendment for that purpose. As, therefore, there was nothing like a claim of prerogative on the part of the Executive, but on the other hand a Constitutional and sound deposit of powers in him by Congress, Mr. M. hoped the motion to strike out would not prevail.

Mr. GREGG thought the section might be retained, and yet the inconvenience apprehended by the gentleman from Connecticut be obviated by a small amendment, to wit: by adding after the word manner, "not inconsistent with the Constitution of the United States." Mr. G. had no fears of the exercise of the powers vested in the President by this bill, or that he would not concur in relinquishing them when Congress may establish a temporary government for the territory. If the gentleman from Connecticut withdrew his motion, he would offer the amendment he had stated.

Mr. DANA said if the amendment proposed by the gentleman from Pennsylvania were inserted, it might imply that we may pass laws that were unconstitutional; it was, therefore, superfluous. It is objected to the scope of the second section, that it is unconstitutional; insert the amendment and it nullifies it. The gentleman from New York (Mr. MITCHELL) has referred to a subject with which he is well conversant. He is correct in stating that the formal style of the English acts is in the name of the King. In the formal style of the acts of Parliament, the King is legislator; but will it be inferred from this circumstance that he is the real legislator? The gentleman is too well acquainted with the constitution and laws of that country not to know that the King, though nominally the dispenser of justice, cannot himself sit upon the bench, and that this has been the case since the act of settlement. He might, in support of this position, refer to the declaration of a celebrated Chief Justice of England, who had said that the honor of the Crown had nothing to do with the courts of justice.

The gentleman is equally unfortunate in his remarks on the power of Congress to make rules for the government of a territory. It is objected to this, that in this case you make no laws at all. Is it to make laws, to say a man may do as he pleases? The proposed government is not even



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provisional or circumscribed. Insufficient also is any argument deducible from the ordinance establishing territorial governments. He presumed the ordinance alluded to was that of 1787. Under that ordinance the President is authorized to appoint the judges of the territory; but once appointed they hold their offices during good behaviour. Who, under that ordinance, make the laws? Neither the judges nor the President. No laws can be accepted but such as have received the sanction of a representative body. What is proposed by the bill? That all powers, military, civil, and judicial, exercised by the officers of the existing government, shall be vested in such persons, and shall be exercised in such manner as the President shall direct. He may, under this authority, establish the whole code of Spanish laws, however contrary to our own; appoint whomsoever he pleases as judges, and remove them according to his pleasure; thus uniting in himself all the power, Legislative, Executive, and Judicial. This, though a complete despotism, gentlemen may perhaps say is necessary. If so, let the military power be exercised by the President as Commander-in-Chief of the armies.

Mr. VARNUM observed, that it seemed to him that gentlemen who had made a Constitutional difficulty respecting the provisions of this bill, and those of the treaty, had, in their arguments, mistaken their ground on the same point; and that they were objecting to the constitutionality of things not within the Constitution. During the previous discussions, as well as on this day, he thought that as to the retention of the free navigation of the Mississippi by Spain and France, the sovereignty of the ceded territory was not completely vested in the United States until the end of twelve years. We acquire the sovereignty over that country under certain terms; we have not at once all of it that relates to trade. There could, therefore, be no unconstitutionality in carrying the treaty into effect on the ground taken by gentlemen.

He considered the objections made to the second section of the bill under consideration of the same nature. We are told that we are about to authorize the exercise of power over the ceded territory not authorized by the Constitution. He would ask if the Constitution were to take effect as soon as the United States take possession of the territory? On this point he would refer to the treaty. It provides that "the inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted as soon as possible." How incorporated? By a Legislative act? No, "according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

In what meantime? There is a time when the country is acquired, and a time when it will be admitted into the Union. Between these periods, in the meantime, the people are to enjoy their

liberty, property, and the religion which they profess. I, said Mr. V., can devise no way of their enjoying these rights, until admitted into the Union, but by their continuing under the government of the laws of Spain. The Senate have made provision for carrying into effect this part of the treaty, and it cannot be carried into effect in any other way. I am, therefore, against striking out the section, and think the amendment unnecessary.

Mr. EPPES said the only question before the Committee was, whether it was important to take possession of this country or not. If a proper view be taken of the proposition of gentlemen opposed to the present measure, though they profess to be the friends of the people of that territory, it will appear in fact to disfranchise them. What will be the effect of striking out the second section of the bill? If the President take possession of the country, what will be the situation of the people? The moment he takes possession, the Spanish government ceases. By what laws then will they be governed? He had never expected from that quarter of the House such a proposition. He had expected from their uniform professions that an attachment to order and good government was with them an universal sentiment. He hoped, therefore, before the Committee concurred with them in striking out the section, some substitute for the government of these people would be offered.

Mr. EVRIST said it was possible the bill under consideration might in its details be objectionable, but in principle it was certainly sound. The Government of the United States has a Constitutional right to acquire territory, and they have consequently a right to take possession of it when acquired. The taking possession of it was not only the right, but the duty of the Government. And how is this to be effected? Will any gentleman venture to propose a delay until Congress shall have passed a new code of laws? Are gentlemen, at this late day, to be informed that this would be to throw away one of the most valuable acquisitions made by our country since the adoption of the Constitution, or the Declaration of Independence? As the gentleman, last speaking, rightly observes, the entire government of Spain ceases on our taking possession. Are we then to abandon the people to anarchy?

As to the extent of the power vested in the Executive, it arises from necessity. This is a new case altogether. There is no doubt that on many particular subordinate points, respecting the secure possession of this country, difficulties may present themselves. But Mr. E. presumed and expected that the same wisdom that acquired it, would preside over the councils of the nation to meet and overcome those difficulties. The second section of the bill contemplates the transfer to officers of the United States, of the same powers now exercised. It may be that the exercise of all these powers will not be necessary; while it is possible that others may be necessary. There may be difficulties of various kinds. He should name none. But as they arise, it will be the duty of the Government to be prepared to meet them.

He would, therefore, wish this act rather to increase than curtail them; and that the President should be authorized not only to continue all necessary existing powers, but to institute such other powers as may be necessary for the well being of the territory. Till when? Until this House and the other branch of the Legislature shall make the necessary laws. The powers delegated by the bill are imposed by the imperious circumstances of the case. What if forcible possession shall prove necessary, and the innocent inhabitants should be slaughtered, through a want of the powers necessary to preserve tranquillity and good order; whose will, under such circumstances, will be the governing one? Will not the President, in such event, have all the powers now given him?

Mr. EUSTIS said he must confess that the objections made to the temporary government of the country, arose from a quarter, which, by opposing every step taken to acquire it, greatly weakened, in his mind, the force of the arguments urged. He recollected when, during the last session, two millions of dollars were proposed to be appropriated towards the acquisition of this important object, it had been objected to, on different grounds—there was then no objection to the constitutionality of the acquisition. He should not, however, go into a detail of the arguments urged on that occasion; those who were present well remembered them. Those objections were well surmounted; and the territory was acquired. After the acquisition, what were the objections of gentlemen? Objections were made that were calculated to weaken our title, and to strengthen that of Spain; and it was further contended that we had no Constitutional right to acquire the territory. These surmounted, what followed? We were then told that we had no right to guaranty to the people the right of citizenship, although the gentleman who urged this difficulty, answered himself in the same breath by saying the Constitution had not provided for such a case. That objection removed, what is the last, and present difficulty? Though called upon to take immediate possession of this territory, you are told, you are not to govern it. This is the amount of the arguments of gentlemen, for if you do not govern it in this way, you can govern it in no other. Mr. E. saw no other alternative; there was no possibility of any other course. He was, therefore, happy to see nothing in the Constitution that forbade pursuing it. On the contrary, it arose imperiously from the acquisition; and the same objections that were now so strenuously insisted upon, would lead to the adoption of those very measures which had been reprobated by both branches of the Legislature, and by a great majority of the American people.

Mr. ELLIOT said as he had the misfortune to differ, on this occasion, from the gentlemen with whom he generally voted, he should take the liberty of stating his objections to the section moved to be stricken out. He was persuaded there would not be imputed to him, for so doing, the least wish to embarrass the accomplishment of the important object of the secure possession of Louisiana.

No; the opinions he entertained were dictated by a wish to accelerate the taking possession. He would endeavor to show that his view of the subject was that taken by the President of the United States. By the law of nations, on the acquisition of country by cession, the laws of the nation ceding continue in force until the laws of the nation acquiring the territory supersede them. What then is necessary to carry this treaty into effect? It is necessary to make the appropriations; this the House have already determined to do. It is necessary to enable the proper authority to take possession of the country. That is done by the first section of this bill. These measures carry the treaty into effect; and the temporary government is immediately consequential.

But it is said, if the President is authorized to take possession, and there shall be no other provision made by Congress, a military government will exist, and will disturb the rights of the people as guarantied by the treaty. No such thing; for the military power will take possession in subordination to the civil authority. To show that the President entertained this view it was only necessary to advert to the language of his Message at the commencement of the session. He therein says: "With the wisdom of Congress it will rest to take those ulterior measures which may be necessary for the immediate occupation, and temporary government of the country."

It is evident that the President considers a temporary government as one of those ulterior measures. In his subsequent Message, he alludes to the same temporary government as an ulterior measure. He says, "the ulterior provisions also suggested in the same communication, for the occupation and government of the country, will call for early attention. Such information relative to its government, as time and distance have permitted me to obtain, will be ready to be laid before you within a few days." This information we have not yet received; and it is but proper that we wait for it.

Mr. E. apprehended no danger from a military government; information will be soon communicated, and in a few days we will be enabled to establish a temporary government on the information we shall have received.

He could not reconcile the second section with the Constitution of the United States; he believed that the Constitution delegated the legislative power to Congress, and not to the President; and that it not only precluded the President from exercising it, but likewise forbade our delegation of it to him. He repeated, what he had before observed, that he had full confidence in the President; but he objected to this delegation of power on principle; he had sworn to support the Constitution, and believing that, under it, Congress, and Congress only had the power of legislation, he must be against delegating it to the President.

Mr. R. GRISWOLD would agree to withdraw his motion for striking out the section, if he thought that the amendment suggested by the gentleman from Pennsylvania (Mr. GREGG) could have the effect contemplated; but he believed it would not

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remove his objection, which was, that the powers, stated in the section, could not be delegated in the manner proposed; therefore to say, that when delegated, they shall not be exercised, was saying nothing, or saying that they should not be delegated. The gentleman from Maryland (Mr. NICHOLSON) has not taken his ground with his usual accuracy. He has said that these powers are not transferred to the President, but to the officers appointed by him. True, but how are they to be executed? As the President shall direct; therefore the officers are to be viewed as under subjection to the President, and the powers to be exercised as he shall direct. Virtually then they are to be exercised by the President, and are, in fact, transferred to him; and if we cannot transfer to him the power of legislation and judging in any one territory, we cannot in this, and the act is a violation of the Constitution.

There is another objection to the power reposed in the President by this section. The Constitution provides that "he shall nominate, and by and with the advice and consent of the Senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein provided for, and which shall be established by law: but the Congress may, by law, vest the appointment of such inferior officers as they think proper, in the President alone, in the courts of law, or in the heads of Department." Now, by the section of the bill under consideration, power is given to the President to appoint all the officers in the province, from the governor down to the lowest officer. Gentlemen will not say that the office of governor or judge is one of the inferior offices contemplated in the Constitution. They had never been so considered. In all the arrangements of appointments for the territorial governments, the sanction of the Senate had been required for the governors, judges, secretaries, &c.; whereas, in this instance, the President is clothed with power to appoint all the officers in the territory. He apprehended that such a power could not be constitutionally given.

Mr. GRISWOLD said he had no wish to retard the enactment of the necessary laws for taking possession, which ought to be immediately done; and he expected, if this section were stricken out, the wisdom of Congress would devise a proper provision.

A gentleman from Massachusetts, (Mr. EUSTIS,) not content with the extensive delegation of power made by this bill, is for giving to the President all power; the effect of which would be, not only to make him King, but Grand Inquisitor likewise.

Mr. EUSTIS explained, and said that he was for giving all powers necessary for the welfare of the territory.

Mr. R. GRISWOLD.—The powers proposed to be conferred by the gentleman are without limits. It may be necessary for the welfare of the people, to secure their religion. The President may be therefore, constituted grand inquisitor, he may also be made a king, and likewise a judge, for the good of the people. I am not, said Mr. G., will-

ing myself to give him such extensive powers. I can, however, well account for certain gentlemen urging on this occasion the old French argument of "imperious necessity." But such a pretext can never justify me in giving a vote that will violate the Constitution. I can, in truth, see no such necessity, as provision can be made for admitting these people to the enjoyment of all the privileges stipulated by the treaty, without involving a violation of the Constitution. Gentlemen may criminate, as they please, the motives of those who are for restraining this extension of Executive power; but I trust, whatever may be the feelings of gentlemen, that the Committee will not be impressed with the same opinion entertained by them; but that if they consider this delegation of power as repugnant to the Constitution, they will not agree to it, or, in other words, to the investiture of the President with absolute power over this province. If, on the other hand, they think the delegation is Constitutional, they will feel no repugnance to agreeing to it; because, as I observed before, the power will be of short duration, and will not, probably, be abused.

As to the idea of some gentlemen, that this territory, not being a part of the United States, but a colony, and that therefore we may do as we please with it, it is not correct. If we acquire a colony by conquest or purchase—and I believe we may do both—it is not consistent with the Constitution to delegate to the President, even over a colony thus acquired, all power, Legislative, Executive, and Judicial; for this would make him the despot of the colony. Mr. G. concluded his remarks by observing that he had no jealousy of the abuse of this power by the President; but not being, in his opinion, authorized by the Constitution he could not agree to vote for it.

Mr. JACKSON considered the second section of the bill as repugnant to the Constitution; but if this were not the case, he had other objections to it. He thought it important to take immediate possession of the country, and was deeply interested as the representative of constituents who lived on the waters connected with the Mississippi; still he did not think it proper to be premature in establishing a system of government. So far as relates to the taking possession, said Mr. J., let us then adopt immediately the necessary measures. But so far as relates to the formation of a government, let us take time for it. I would prefer an interregnum to doing anything which should militate against the Constitution, or principles that have been long respected. I wish not to adopt the principle of the right of this House to delegate such extensive powers for even one day; for if they possess the right of delegating them for one day, they possess the co-extensive right of delegating them forever. Let us not then delegate them at all. It is my wish to be consistent. I have always been against delegating extensive power to the Executive; and I know not of any power so extensive before delegated. But gentlemen say it is incumbent on us to take immediate possession. For this the first section of the bill is amply sufficient; and I cannot see the inconve-

nience of postponing the other part of the bill for a few days; particularly if the ideas of the gentlemen from Vermont (Mr. ELLIOT) are correct, that the laws of the ceding country will remain in force until superseded by those of the country that has acquired the territory. The gentleman from New York sees no danger in giving to the President despotic power over this territory for a few days.

Mr. MITCHELL explained, and observed that the gentleman had mistaken his remark. His object was to show, that though the power might appear to be despotic, yet that it really was not so.

Mr. JACKSON said he understood the gentleman as he had explained. If the power delegated carried with it such an appearance, it ought to be a sufficient reason for rejecting it.

The gentleman from Massachusetts (Mr. VARNUM) has observed that we do not acquire the exclusive sovereignty of this territory till the expiration of twelve years after the ratification of the treaty. In this opinion I differ from him, for if we do not possess the exclusive sovereignty, it would be impossible for us to legislate, as the act of legislation is the highest attribute of sovereignty.

When I recur to the Constitution, I find that though it does not expressly say, the Legislative, Executive, and Judicial powers shall be distinct, as some constitutions lately formed do, yet it amounts in fact to the same thing, by delegating special powers exclusively to particular departments. I believe also the President to be inimical to the extension of Executive power. I am not afraid of delegating such power, if not inconsistent with the Constitution, because I have so much confidence in the President, as to be convinced that he would not abuse it. But I believe principle ought, under all circumstances, to be respected; and under present circumstances, though we may have a President so congenial to our wishes. What, if hereafter we should deem it important to oppose the delegation of such power? gentlemen, in favor of such a delegation will say, here is a precedent set by yourselves, and thus preclude us, on the score of consistency, from opposing the measure.

I did intend to say something about the right of the United States to acquire territory; but the gentleman from Connecticut (Mr. GRISWOLD) having acknowledged the right to acquire it, either by purchase or cession, renders all further remarks on this point unnecessary.

Mr. SMILIE said, this subject struck him differently from other gentlemen. If it appeared clear to him that the Constitutional right to delegate the powers contemplated by the second section did not exist, he should vote against it. But he entertained no doubt on this point. He knew that it had been doubted whether the Constitution authorized the Government of the United States to acquire territory; but those doubts were this day abandoned. He agreed in opinion with the gentleman from Massachusetts, (Mr. VARNUM,) that the Constitution of the United States did not extend to this territory any farther than they were bound by the compact between the ceding power

and the people. On this principle they had a right, viewing it in the light of a colony, to give it such government as the Government of the United States might think proper, without thereby violating the Constitution; when incorporated into the Union, the inhabitants must enjoy all the rights of citizens. He would thank gentlemen to show any part of the Constitution that extends either Legislative, Executive, or Judicial power, over this territory. If none such could be shown, it must rest with the discretion of the Government to give it such a system as they may think best for it. At the same time, Mr. S. said, he would pledge himself to be among the first to incorporate the territory in the Union, and to admit the people to all the rights of citizens of the United States.

Mr. RODNEY.—When a Constitutional question is made, and Constitutional objections urged, by a respectable member of this House, they shall always receive from me a respectful attention. On this occasion I shall endeavor to answer the objections, and remove the doubts entertained by some gentlemen. I believe we shall find that, by adopting the second section of the bill under consideration, we shall not infringe the Constitution in the remotest degree. No person is more opposed to the extreme of absolute and unlimited power, or to vesting in any man that authority which, by not being circumscribed within known bounds, may be easily abused. No man can be more opposed to the exercise by the President of powers exercised by the Spanish inquisition, and authorized by other Governments. But cases may occur where, for a moment, powers to which, without an absolute necessity, no one would agree, become necessary to be vested in some department of the Government; and I am in favor of this section for the reasons assigned by my friend from Virginia, to wit, that the exercise of the powers delegated will be confined to a short space, and will be of no further duration than shall be necessary to obtain the end of a secure possession of the territory. It is admitted by the gentleman from Connecticut, (Mr. GRISWOLD,) and he deserves infinite honor for the admission, which shows that he has magnanimity to acknowledge an error when he discovers it, that the United States have a right to acquire territory by treaty or purchase. The other day the gentleman admitted the right to acquire territory by warlike means; to-day he goes a step further, and admits that which enables me to demonstrate that this section involves no violation of the Constitution.

Mr. GRISWOLD explained.—He wished, once for all, to state what he had stated on a previous occasion, and what he had stated that day. He did admit that the United States might acquire territory by war or purchase; and he had always admitted this. But he had said that they could not by treaty admit a foreign country and incorporate it into the Union. If the gentleman from Delaware considers these remarks as inconsistent, he is welcome to the opinion.

Mr. RODNEY.—I thank the gentleman from Connecticut for his explanation. The observa-

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tions I was about to make were on no other ground than that now stated by the gentleman. The United States, it is acknowledged, have a right to extend their territory beyond that which they possessed when the Constitution was formed. If, then, there exist the right to acquire territory, there is a consequence of the laws that pervade all civilized nations, which will show not only the constitutionality but the propriety also of this section. It is a received principle of the law of nations, that, when territory is ceded, the people who inhabit it have a right to the laws they formerly lived under, embracing the whole civil and criminal code, until they are altered or amended by the country to whom the cession is made. This is the received principle of the law of nations, and operates wherever the right to acquire territory is previously given. I will put a plain case, on the ground so commonly of late resorted to, that of acquiring territory by war. The right to make war is vested by the Constitution in the Government of the United States. Suppose we had gone down the Mississippi, and favored the wishes of some of our citizens. Would not gentlemen, in that case, have acknowledged that we should have possessed the right of laying contributions? Should we not have had the right of saying to those who exercised the powers of government in that country, "Begone! We will make new arrangements; the powers of government shall be exercised by such particular organs as we like. Your laws and your religion shall be preserved; but your officers shall be replaced by ours." Under the laws of nations we should have enjoyed all these powers.

But, independent of this power conferred by the law of nations, I am inclined to think the provisions of the Constitution apply to this case. There is a wide distinction between States and Territories, and the Constitution appears clearly to indicate it. By examining the Constitution accurately, it will be found that the provision relied upon by the gentleman from Connecticut will not avail to support his argument. It will appear that it is to operate in the case of States only. By the third section of the fourth article of the Constitution, it is declared that "the Congress shall have power to dispose of and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this Constitution shall be so construed as to prejudice any claims of the United States or any particular State."

This provision does not limit or restrain the authority of Congress with respect to Territories, but vests them with full and complete power to exercise a sound discretion generally on the subject. Let us not be told this power, from its greatness, is liable to abuse. If arguments are drawn from the abuse against the use of power, I know no power which may not be abused, and it will follow that the same arguments that are urged against the use of this power may be urged against the use of all power. If the Constitutional powers given to Congress are abused by their Representatives, the people may dismiss them. But on

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this subject I apprehend there is little danger of abuse by Representatives coming from States. If I am correct in this construction of the Constitution, it puts an end to the Constitutional objections urged by gentlemen. They may oppose the present measure as inexpedient; but when we contemplate the people on whom it is to operate, we may rest satisfied that they will consider it as beneficial, inasmuch as it does not produce a violent change in their habits and laws.

We may be told that, in the government of the Northwestern Territory, there are certain fixed rules established. But by a recurrence to the ordinance for the government of that Territory, and to the laws of Congress subsequently made, it will be seen that Congress have conceived themselves to be possessed of the right, and have actually exercised the power, to alter the Territory, by adding to or taking from it as they thought proper, and by making rules variant from those under which it was originally organized.

In the Territories of the United States, under the ordinances of Congress, the Governor and the Judges have a right to make laws. Could this be done in a State? I presume not. It shows that Congress have a power in the Territories, which they cannot exercise in States; and that the limitations of power, found in the Constitution, are applicable to States and not to Territories.

The question was then put on striking out the second section, and lost—ayes 30.

Mr. DANA asked if this army, to be raised for the purpose of taking possession of this territory, was intended to march out of the United States?

Mr. J. RANDOLPH asked, whether Gen. Wayne, with his army, did not go out of the United States? An act authorized them to go out of the United States.

Mr. SANFORD asked, whether there was not a law passed last session for marching troops out of the United States to New Orleans? He said he was not then a member of the House, and could not correctly ascertain the fact.

Mr. DANA.—No power was given to the President to march an army to New Orleans, though a vote might have passed to raise eighty thousand men; but I maintain that they could not be compelled to go out of the United States.

Mr. SANFORD understood these eighty thousand men were intended to take possession of New Orleans by force.

Mr. G. GRISWOLD.—I want to know when they were voted for to march to New Orleans. I cannot recollect such a circumstance. I was in favor of vigorous measures, but I know of no such law that passed for their going to New Orleans.

The Committee rose and reported the bill without amendment.

Mr. RANDOLPH moved to amend the second section, by adding to the end thereof the following words: "for maintaining and protecting the inhabitants of Louisiana in the full enjoyment of their liberty, property, and religion."

Agreed to without a division.

The bill was ordered to be engrossed for a third reading to-morrow.

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Amendment to the Constitution.

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On motion of Mr. RANDOLPH,  
*Resolved*, That so much of the President's Message as relates to permanent arrangements for the government of Louisiana, be referred to a select committee.

*Ordered*, That Mr. RANDOLPH, Mr. RHEA, Mr. HOGE, Mr. G. GRISWOLD, and Mr. BEDINGER, be appointed a committee, pursuant to the said resolution.

FRIDAY, October 28.

A petition of William Pancoast, of Georgetown, in the District of Columbia, was presented to the House and read, praying that a patent may be granted to him for a quantity of vacant land in this District, a warrant of survey for which was obtained by the petitioner from the land office of the State of Maryland, and placed in the hands of the Surveyor of Prince George's county, in the said State, who refused to execute the same previous to the period when Congress assumed the jurisdiction of the District of Columbia.

*Ordered*, That the said petition be referred to Mr. LEIB, Mr. THOMPSON, and Mr. PLATER; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

The SPEAKER laid before the House a letter and report from the Secretary of the Treasury, accompanied with a report made to him of the opinion of the persons employed to take a survey of the harbor in the island of Nantucket, and of the bar and shoals near the same, as to the measures necessary to secure a sufficient channel for loaded ships destined for that port; together with an estimate of the probable expenses, and a chart of the said harbor and shoals, in pursuance of a resolution of this House of the sixteenth of February last; which were read, and referred to the Committee of Commerce and Manufactures.

Mr. RODNEY submitted a resolution for the appointment of a committee to inquire into the expediency of extinguishing the claims of the United States against several States for balances of debt.

Mr. THOMAS moved to take the resolution into immediate consideration. Carried—ayes 43, noes 42.

Mr. GRISWOLD moved its reference to a Committee of the Whole. Agreed to ayes 53, noes 34; and it was made the order for Monday next.

#### AMENDMENT TO THE CONSTITUTION.

An engrossed resolution for the amendment of the Constitution was read a third time, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring*, That the following article be proposed to the Legislatures of the different States, as an amendment to the Constitution of the United States; which, when ratified by three-fourths of the said Legislatures, shall be valid, to all intents and purposes, as a part of the said Constitution, viz:

"In all future elections of President and Vice President, the Electors shall name in their ballots the person voted for as President, and in distinct ballots the person voted for as Vice President; of whom, one at least shall

not be an inhabitant of the same State with themselves. The person voted for as President having a majority of the votes of all the Electors appointed shall be the President; and if no person have such majority, then, from the five highest on the list of those voted for as President, the House of Representatives shall choose the President, in the manner directed by the Constitution.

"The person having the greatest number of votes as Vice President shall be the Vice President; and in case of an equal number of votes for two or more persons for Vice President, they being the highest on the list, the Senate shall choose the Vice President from those having such equal number, in the manner directed by the Constitution."

Mr. G. GRISWOLD.—I rise to assign the reasons for the vote which I shall give against the resolution now under consideration. When in Committee of the whole House on the same resolution, it was with much satisfaction that I heard gentlemen who advocated the resolution declare their anxious desire and full determination not to make any inroad upon the article of the Constitution, now under consideration, so as in any degree to impair the rights and benefits thereby secured to the smaller States.

The honorable gentleman from Virginia (Mr. RANDOLPH) acknowledged his very great respect for the worthies who formed the Constitution—that our Union was a Confederation of States; and the result of a compromise between the several different States, as States, and that he was the last man who would consent to take from the smaller States any right or advantage secured to them by this article of the Constitution.

Should I be able to show that the alteration now proposed would materially affect the interest of the smaller States in the choice of President of the United States, I trust that gentlemen, agreeably to their public declarations, will vote with me against the resolution.

The Constitution of the United States is a compact formed by the several States to and for the general good. It is well known to have been produced by a spirit of compromise among the several States; that much difficulty arose in its formation; and, perhaps, in no one article of the Constitution, could there have arisen greater jealousies between the larger and smaller States than that pointing out the mode of electing the Chief Magistrate. The larger States, as is natural to suppose, would contend for an election, according to the number of inhabitants of each State, as they thereby would secure more votes; the smaller States, on the principle that it was a confederation of States, would contend for an equal vote; that is, to vote by States, and not by population or numbers. To settle the difficulty, the present article was agreed to, and thereby both of the above principles, as contended for, by the larger and smaller States, adopted to a certain extent—the mode being a mixture of both principles. First, it permits the election of President to be by numbers; that is, giving each State votes in proportion to its population; whereby the larger States, considered in their corporate capacity as States, have the advantage of the smaller States in their cor-

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porate capacity as States. But in case of a failure of choice in the first mode, then the second, of choosing by States, is to be pursued, whereby the former States have an equal vote with the larger States.

In no other place than on this floor are the smaller States on an equal footing with the larger States in the choice of the President of the United States. It follows then, of course, that the greater the chance of bringing the States to a vote on this floor, the more advantageous it is to the smaller States, as here the smaller States are as powerful as the larger States. By the Constitution, as it now stands, there are two chances for a choice of President on this floor: 1st, when there are more persons than one who have a Constitutional majority of votes and are equal in number; 2d, when there is no person who has a Constitutional majority. Only one of the above cases can happen at a time; but there is always a chance for one of the two to happen. But, by the proposed amendment, the first before-mentioned chance can never happen; it is wholly taken away, and only one possible chance of voting on this floor by States left. For, when your ballots designate who is voted for as President, it never can happen that more persons than one can have a Constitutional majority of votes. One chance then of voting on this floor by States being taken away by the proposed amendment, it follows irresistibly that the smaller States will be injured, and the larger States benefitted. I ask then, sir, if gentlemen representing the larger States can be sincere, when they declare that they mean not to infringe upon the rights of the smaller States, as secured by this article of the Constitution, and still give their vote for the present resolution? The one in my opinion will contradict the other.

I have the honor of representing one of the larger States, but I feel no wish to lessen the rights of the smaller States, as secured by this article of the Constitution, and I trust my vote will correspond with my declaration.

I also ask, sir, if gentlemen who represent some of the smaller States are willing to give up so important a right as is secured them by this article of the Constitution? Gentlemen may think they are answering the wishes of their constituents, but I am sure if their constituents fully understood the principles of this article of the Constitution, they never would thank the gentlemen for their votes in favor of the resolution.

I well know, sir, that at first view it appears plausible that the ballots should designate who is voted for as President. I also confess, sir, that when the subject was first mentioned to me, I could see no solid objection why it should not be. But, sir, when I examine the nature of our Government, the clashing interests of the several States, the balance of power and influence necessary to be formed between the larger and smaller States, and trace all the minute ways and means by which this power and influence may operate, I find many objections. The more this article of the Constitution is investigated, the more will its principles be admired.

The present mode of bringing forward candidates for the office of President and Vice President is the least liable to call forth art, intrigue, and corruption; the uncertainty of the event and the difficulty of making arrangements are strong checks to the artful and designing. But the moment the mode pointed out by this resolution is adopted, the door for intrigue and corruption is open; the candidates and their friends can calculate with certainty and apply the means direct; the power of party, influence of office, art, cunning, intrigue, and corruption, will all be used, and used to effect, because the object is certain.

I would ask, sir, if this is a proper time to alter the Constitution? The public mind is agitated with violent party rage. Cool, calm reasoning is not to be expected. The general good must and will yield to party purposes, because parties will consider that to be for public good, which immediately promotes their own views. In such a state of things, I think an attempt to alter the Constitution not advisable. Again, sir, I believe it is better to suffer a small inconvenience, should any exist, than to attempt an alteration; for the habit of compliance on the part of the people with a rule of Government, is of as much importance to give effect to that rule, as the soundness of the principle contained in the rule itself. By altering the articles of the Constitution for every trivial pretext, you destroy that sacred regard which every citizen ought to have for the Constitution. For these reasons I shall assuredly vote against the resolution.

Mr. HUGER—Much as has been said, Mr. Speaker, and much of our time as has been already taken up, since the commencement of the present session, in discussing the resolution now under consideration, you will no doubt have remarked, that the debate has heretofore been almost exclusively carried on by gentlemen of one particular side of the House; neither will it have escaped your observation, that numerous as have been the speakers, and various and lengthy as have been their arguments, scarcely one of them has deemed it necessary to discuss the general merits of the question, or to show the propriety of making the proposed alteration in our national compact. The necessity, propriety, and expediency of making such an alteration, would seem, indeed, to have been regarded as points conceded on all hands, as constituting a proposition, so plain, so self-evident, so unencumbered with anything like a doubt, that it would have been superfluous to bestow a moment's thought on, or to adduce a single argument in support of it. The gentlemen, therefore, who have preceded me, taking it for granted that an alteration must, and would of course, be made, have confined themselves almost exclusively to the consideration of the manner in which it was to be brought about, and the extent to which it was at this time to be carried. I have listened with the utmost attention for several days past to the various propositions which they have presented to the consideration of the House. I have been greatly edified by their arguments and have admired the ingenuity and ability with which the



respective propositions have been supported. You will permit me to add, sir, that I have heard with infinite pleasure, the declarations and assurances of attachment to our present happy Constitution, which have been so frequently expressed by almost every gentleman who has taken any part in the debate. It has given me peculiar satisfaction to hear these sentiments repeated again and again, by characters no less respectable for their talents, than distinguished for their influence in the community. The fears and apprehensions which, I will candidly acknowledge, had made a deep and painful impression on my mind, have been greatly lessened, in some degree removed, by the assurances of unfeigned acquiescence in, and perfect contentment with the present Constitution of the United States, and by the expressions of unequivocal disapprobation of every other alteration in the national compact, (save the one now proposed,) which have fallen from quarters, from whence, I will not deny, that I had anticipated and apprehended sentiments of a very contrary tendency. But whilst I give full and perfect credit, Mr. Speaker, to the assertions of honorable gentlemen; whilst I rejoice most sincerely that the members of this respectable body one and all accord, and unite in one common attachment to that compact which forms the bond of our Union; whilst I deprecate the idea of casting anything like an imputation on the motives of any member on this floor, I cannot but lament that an exception is made in one instance, and that the Constitution is not allowed to remain unaltered and as it now stands. I impute not, I repeat it, any improper motives to the friends of the resolution at present under consideration. The rage, however, for change and innovation has, of late years, spread itself with a rapidity unequalled among the nations of the earth; and we have seen and heard enough out of doors and in our own country, to authorize caution, and to excite the apprehension that there are many among us to whom great and material alterations in our national compact would be more than acceptable. *Obsta principis* is an old and trite, but, on most occasions, a sound and safe maxim. In times like the present, I deem it our only safeguard—the sheet-anchor of our political salvation. This nation has experienced too immediate, and too fortunate a change in its political situation and prospects, since the adoption of the present Constitution; we have increased too rapidly in wealth, in strength, and in national prosperity, and we enjoy too great a portion of present happiness under its benign auspices to assent easily, and at a moment's warning, to many great and evidently serious alterations in it. The most enthusiastic advocate of innovations would not venture to propose such; for it is evident the public mind is not yet sufficiently prepared to receive them. It is only by degrees, and by undermining under plausible prettexts, and at favorable moments, first one, and then another of the main supports of the fabric, that we shall be exposed to see it, sooner or later, begin to totter, then crumble, and I fear bury us in its ruins.

Here, then, on the merits of the Constitution,

as it was presented to us by the Convention, as it now is, I take my stand. Upon this ground I am unequivocally opposed to the alteration proposed, for I feel the strongest conviction that, if it obtains, we shall have given a deadly wound to the national compact, we shall have effaced one of its leading features, we shall have signed the death warrant of one of the vital and most important principles upon which it was originally established.

I have already observed, Mr. Speaker, that the gentlemen who preceded me in the present debate have avoided everything like a discussion of the general merits of the question, and confined themselves almost exclusively to the consideration of the manner in which the proposed alteration is to be brought about, and the extent to which it is at this time to be carried.

Some observations have, nevertheless, fallen from two gentlemen, both of them from the very respectable State of Virginia, which appear to me peculiarly worthy of attention. The one (Mr. CLORTON) has presented to us a view of the subject, which, although I by no means think the correct one, is evidently that in which most of the gentlemen in this House have regarded it, and in which persons out of doors are for the most part wont to consider this, and indeed every other Constitutional question. I have listened to him however with great pleasure, and from the ingenuity and information which pervaded such of his arguments as I could fully comprehend, I feel much regret that the utmost attention on my part, owing partly to the feebleness of his voice, and partly to the unfavorable situation of his seat, did not enable me always to connect his ideas and arguments, and perfectly to understand him. This gentleman seems, for the moment, to have forgotten that the Government under which we live is formed upon Federative no less than upon Republican principles; and though wishing to introduce an important alteration in our national compact, puts the compact itself, the spirit with which it was formed, and the vital principles upon which it was established, entirely out of the question. He takes an abstract view of the subject, as if it had no connexion whatever with other parts and principles of the compact, carries us back to a state of nature, and seems to regard it as a radical error in the Constitution that the provisions and modifications it contains are not solely founded upon the broad basis of population and numbers. He talks to us of the rights of man in a state of nature, of the origin of the social compact, of the foundation upon which all Governments ought to be formed, viz: the will of the people; and, drawing his inference from these pure, unmixed, and abstract principles and theories, thinks, whilst he shows us what would be the most eligible mode of providing for the Executive branch of Government about to be formed for the protection of the people, just rising for the first time into political existence, he proves triumphantly and unanswerably that such too ought to be the mode adopted by a Union like ours, composed of so many distinct and independent sovereignties, of so old a date,

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and having such various, distinct, and complicated views and interests. Let me not, however, be misunderstood; I am not finding fault with, or condemning in the abstract, the principles laid down by the honorable member. Still less would I be understood to deny that the Constitution has been formed upon the broad basis of the public good, and the will of the people of the respective States. I well know, and it is for that very reason I feel so sincere an attachment to it, that the Federal compact is founded upon liberal and genuine republican principles; but let not gentlemen in the meantime forget that the Government under which we live is of a federative nature; and that these general, unmixed, and abstract principles, upon which we are called on exclusively to act, were then modified and, practically applied to the wants, prejudices, and clashing interests of a numerous and increasing population, divided into a number of distinct sovereignties, spread over a vast extent of country by that very compact in which it is now proposed to make so material and essential an alteration. This is the true point of view in which the subject should be taken up; and I am happy in finding the ideas of the gentleman's colleague, to whom I before alluded, (Mr. J. RANDOLPH,) accord so perfectly with my own in the present instance, and that he too is of opinion, that this is the true and proper point of view in which not only the present but every other proposition to alter or amend the Federal compact, should invariably be considered. Sir, I am truly happy to recollect that the sentiments of that gentleman and my own accord so perfectly on this part of the subject, for, exclusively of the advantages which the weight of his authority must afford to my argument, I am free to acknowledge that it has frequently been a source of regret to me to find a difference in our view of things led me on so many occasions to differ in opinion with most of the companions of my youth whom I have met on this floor, and whom I have for so many years been in the habit of regarding as persons of honor and worth.

It was stated, and in my humble opinion correctly stated, by the honorable member from Virginia (Mr. RANDOLPH) of whom I have last spoken, some days since, that, when we were about to make any alteration in the compact which unites these States together, it behooved us not to take into view merely what we thought, individually, it ought to have been, or wished it to be, nor what shape, were we in convention for that purpose, we should give it; but rather to consider what shape had already been given to it, and what the compact, as it presents itself to us in the Constitution, now is. Taking up the subject then under this point of view, allow me, sir, to put these questions to the House. Let me ask, what is the Constitution of the United States? From what sources did it originate? In what manner, by whom, from what causes, upon what principles, in what spirit, was it originally adopted? Is it not a federative Government, agreed upon between thirteen distinct and separate sovereignties, for their mutual defence and protection?

Is it not, in its essence, a compact, a bargain, a perfect compromise of the interests, powers, influence, and rights of a number of independent societies, who have united for their common advantage, and who are no further bound or pledged to each other than by the articles and conditions in the written contract—the Constitution—which has been acceded to by them all? And is it not upon the spirit, in which the conditions of that compact was originally formed, that every amendment to, or alteration in it, should be predicated? These questions must all be necessarily answered in the affirmative. The inhabitants of these United States did not then, in forming the Federal Constitution, act in mass as one people, nor can the abstract principles borrowed from different authors on the primeval formation of political societies apply to them. The worn-out theory of a number of insulated beings assembled together in an extensive plain, and led by their common wants and necessities to form themselves into a body politic, cannot be applied to the Federal Government, nor can inferences drawn from notions of this kind afford correct grounds upon which to build or support alterations and amendments in the national compact.

Thirteen Colonies, at this time composing the United States, spread over an extensive continent, having been threatened with a privation of their rights and liberties, were induced to form a league, offensive and defensive, and to unite for their mutual and common defence. After a bloody though not inglorious contest, they severed themselves forever from the mother country, and they became and were acknowledged as thirteen independent and distinct Republics or Sovereignties. Under what gloomy and critical circumstances they found themselves for some few years after the close of the war, it would be superfluous for me to detail to this House. Let it suffice to say, that their situation was such as seriously to alarm all classes of our citizens, and to threaten complete anarchy, perhaps political dissolution, unless some bond of union, better adapted to their wants and necessities than the original Confederacy, could be established. That band of worthies therefore, as they have been aptly styled, were sent from twelve, I believe, of the States, who, having met together in convention, ultimately formed that compact, which, having been since ratified by all the States, now happily unites us in one great Union. But by whom and by what authority were the members of the Convention delegated? Whom did they represent when assembled together? They were not, it must be acknowledged, even in the degree that the members of this House are, the immediate representatives of the people, inhabiting that part of this vast continent in which the United States are comprised. They were not selected by the people at large, nor did they represent them in their original and individual capacities. No, sir, they were sent to represent the interests and views of thirteen distinct sovereignties; they were appointed by the governments of the different States, and they held their authority from the States, as

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States, and not from the people of the United States generally and indiscriminately. When met therefore, in convention, their object was not to form one general consolidated government for the inhabitants scattered over this vast territory, but to modify still further, and to draw still closer the bands of alliance, by which these States were already connected. And it cannot surely be forgotten, that one of the strongest objections, one of those most insisted on against the Constitution, was, that federative principles had not been sufficiently retained, or rather that they had been totally abandoned, and the Constitution approached too nearly to a consolidation of the different members of the Confederacy, and one general national Government. It is not necessary for me here to detail the difficulties, which opposed themselves to the formation and adoption of any compact, more efficient than that of the old Confederacy, nor would the opportunities I have had of knowing them, (for I was not only under age, but absent from America, when the Convention met) enable me to do justice to the subject. Every one knows, however, that difficulties without number did present themselves, and the Convention was more than once on the eve of dissolving itself without agreeing upon anything. It is a fact equally well ascertained, that the great bone of contention, the point of all others which it was most difficult to adjust, was the jarring interests and opposite pretensions of the large and small States. This was the point upon which the whole business turned, and gentlemen will see at once the justice of the remark, when they recollect that although every other amendment whatever, after the year eighteen hundred and eight, may be made to the Constitution, by two-thirds of both Houses of Congress, when ratified by the Legislatures of three-fourths of the States, yet a single exception is made, and it is particularly specified, that no State, without its consent, shall be deprived of its equal suffrage in the Senate.

Why then this single exception, but because the interest and opposite pretensions of the large and small States were the great bone of contention, and the equal suffrage in the Senate the great, the essential compromise between these conflicting interests and pretensions. But this, though the most important, the *sine qua non* of any compromise, was by no means the only compromise which took place between them.

The great outlines of the Constitution were, I presume, Mr. Speaker, agreed on without much difficulty, and pretty generally acquiesced in. It was understood on all hands that the Government should be formed on republican principles—that the great departments of which it must necessarily consist should be distinct, and, as far as possible, independent of each other. The difficulty was in the detail, and more especially in respect to the quantum of State sovereignty which was to be yielded to the Union, and the degree of influence which was to be respectively given up or retained by the large and small States. Both were at that time independent of each other, and perfectly equal in their rights and sovereign powers, though

very unequal in size, strength, wealth, and population. The basis of a republican government, however, is no doubt the will of the people; and that will could only be expressed and brought into action in a country so extensive as ours, by representation and elections. How then was that representation to be apportioned and those elections organized? To adopt the most common and simple principle in the abstract, and allow the representation to depend entirely on numbers, and the elections to be made indiscriminately and without modification by the people at large, would have been to put an end at once and at one blow to all State sovereignty, to amalgamate the inhabitants of thirteen free and independent Republics into one common mass, and to place the smaller and more feeble completely and forever at the mercy of the more powerful and larger States. But was this done? was such a result desirable? would the States at that day have acquiesced in any similar arrangement? Most certainly not; and, consequently, a totally different modification and compromise took place. The Legislative department of the Government was divided into two distinct branches—a Senate and House of Representatives. In the latter, it is true, the principle of numbers and population was, to a certain degree, adopted, yet still under very important modifications, and with evident deviation from the abstract principle. In the first place, a certain class of people, who unfortunately existed in one portion of the Union, though not allowed any immediate interest themselves in the Government, and regarded rather as property than as beings entitled to any civil or political rights, were included at a certain ratio in the calculation of the number of Representatives who were to have a seat in this House. This difficult and knotty point happily settled, it was in the second place determined that the members of this body, though understood to be the immediate representatives of the people, should not be elected by the people of the United States at large, as one people; but its share of the whole representation according to the ratio and in conformity to the compromise above specified, was apportioned to each respective State, and is to be exclusively elected by the people of that State. Notwithstanding every modification, however, which could be devised, it was evident, and perfectly understood, that although the smaller States would have a voice and proportionate vote, yet the interest and the will of the larger must virtually prevail in the House of Representatives, and that they would in fact dispose of this body at their will. As a partial check, therefore, as some little safeguard against this overweening power on their part, the federative principle was completely retained in its utmost purity, and without the smallest modification, in the other branch of Legislature, the Senate; and not only an equal vote and representation is given to all the States, however large, or however small, but the members who compose the Senate are not even to be elected by the people of the several States, but are to be chosen by, and immediately to represent, the government of each individual State. The diffi-

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culties which presented themselves in organizing the Legislative department of the Government, being thus surmounted and compromised, another question no less embarrassing and difficult to solve, arose, viz: in what manner the Executive powers ought to be disposed of.

Before I proceed to investigate this part of the Constitution, it may not be amiss, Mr. Speaker, to observe that in the formation of any political association upon free principles, it has ever been deemed the Gordian knot, the great desideratum, to find out and to ascertain the best mode of disposing of and organizing the Executive branch of the Government; nor is the experiment which these States are now (I trust successfully) making of the practicability of uniting so vast a territory as is comprised in the American Confederacy, under one general and national government, (founded on free and republican principles,) more interesting or important to the interests of mankind, in any one point of view, than as relates to the creation and disposal of the Executive power.

The history and experience of past ages show us indeed the rocks and quicksands, among which our bark may be stranded and wrecked; but we are still left without a chart or compass, by the assistance of which we might be enabled to avail ourselves of the mistakes and misfortunes of those who have gone before us, and steer our course in safety and security. Divide the Executive power and place it in the hands of many, and you so distract, weaken, and enfeeble it, that it becomes unequal to its end: the security and protection of the body politic. Hence it seems to be the received maxim, that this branch of the Government should be as compact and as concentrated, as a due respect to existing circumstances may permit. A serious difficulty, nevertheless, remains yet to be gotten over, in relation to the mode and manner in which it is to be created and brought into action. The first impulse of our feelings and common sense, untaught by experience and waiving local objections, would seem no doubt to point out at once the mode of election: yet such have been the inconveniences, such the fatal and bloody effects of creating the Executive branch in this way, that we have found not only in monarchical, but in some even of those governments deemed most free, an hereditary has been thought preferable to an elective Executive.

The members of the Convention, however, were too well acquainted with the feelings and sentiments of the American people to hesitate long on this point, and it was consequently determined that the Executive powers should be lodged in the hands of a single individual, under the title of President, who should hold his office during the term of four years, at the end of which period a new election should take place. But the real difficulty in the organization of this department under our Constitution now naturally suggests itself to the mind, viz: how, and by whom, this President was to be elected; for it must be obvious, that all these jealousies and conflicting views and interests of the large and small States, which had been happily compromised, as relates to the Legislative author-

ity, would, of course, apply with increased force in the case of the Executive. To divide this branch, as had been done in the former instance, would be, as I have already shown, to enfeeble it, to deprive it of all energy, to render it insufficient and entirely unequal to the purposes for which it was intended. If the Executive power, on the other hand, was to be vested in a single person, and he elected by the people of the United States, or even on the modified principles upon which the members of the House of Representatives were to be elected, it followed, of necessity, that the larger States would elect whom they pleased, and consequently, the Executive branch of the Government would be entirely under their control and the champion and promoter of their views and interests. But the large States have an entire control over one of the two Houses, of which the National Legislature is composed, and an equality of votes (with all the advantages accruing from superior strength and power, and consequently superior influence) in the other. If, then, in addition to all this, the election of the Executive is put in their hands, you add strength to the strong, grant more power to those already too powerful, and yield up virtually to the large States that branch of the Government, which not only was to have a partial veto on the proceedings of the Legislature, but would probably give impulse to the whole, and be always on the watch and ever ready to avail itself of such favorable occurrences and favorable moments as might best enable them to carry their projects of aggrandizement and encroachment on their more feeble associates, into execution. On the other hand, the larger States, to whom fortune and the nature of the case necessarily gave a preponderating influence in this instance, could scarcely be expected to make a sacrifice of this advantage to the jealousies and fears of the small and weaker, and suffer them, as a thing of course, to take possession of the Executive branch of the Government. In this dilemma, what was done by the Convention?

As usual a compromise took place, and as nearly as possible upon the same principles upon which every other provision of the Constitution is predicated. It was decided that the Executive power should rest in a single individual. It was agreed that he should be elected, not by the people at large, not by the people of each State in the first instance; but by a number of Electors (equal to the combined representation of the States in the Senate, and that of the people of the several States in the House of Representatives) elected by the people of the several States, in the proportion to which they might be respectively entitled, according to the complicated ratio which had been adopted. This modified and complicated mode of election notwithstanding, it was evident the election of the President would be in the hands of the larger States. Every additional security therefore was sought for, the ingenuity of the Convention was put to the rack to invent and devise some further means of quieting the fears and apprehensions of the smaller States, affording them every safeguard, and putting in

their hands every check which the nature of the case would admit of, against the preponderating influence of the interest opposed to them; and I have ever understood, I have ever been taught to believe, by those few of the original framers of the Constitution with whom I have had the happiness to be acquainted, or to converse on the subject, that this very provision which obliges the Electors in each State to vote indiscriminately for two persons to fill the offices of President and Vice President, and which it is now proposed to do away, was regarded as the best, the most effectual means, and that which did in fact tend most to sooth and quiet the fears of the smaller States, and was in this view, and for this very purpose, adopted as a part of the Constitution. The more I turn the subject over in my mind, indeed, the more closely I endeavor to examine and investigate it, the more confirmed are my impressions and convictions, that this really was the case; that the proposition to alter or amend the Constitution in the manner proposed, is neither more nor less than a State question; a question between the different States of the Union, regarded in their original capacity as sovereign and independent States; a question which involves in it the vital principle upon which the Federal compact was formed, viz: a compromise between the fears and jealousies, the jarring interests, and pretensions of the large and small States. I feel myself I confess, sir, unequal to this part of the subject. I am sensible of my inability to calculate all the chances of influence and consequent protection which this, in my humble opinion, little understood provision, affords to the small States, or to point out the various modes in which it was anticipated, that it might and would, in various instances and on various occasions, operate in their favor. Waiving, however, one happy and material effect which I think it must have in regard to the Union at large, viz: that it tends to create a moral necessity on the part of the Electors to bring forward the most eminent characters, as well to fill the office of Vice President as that of President, waiving this certainly not unimportant consideration, I think I can prove to demonstration that this indiscriminate mode of electing the President and Vice President, affords to the smaller States a degree of influence over the election, places an important barrier to the superiority which the large States possess in this instance, and in every event, and at the worst, insures to the former a safeguard and defence against the encroachments of the latter, which they would not otherwise possess, and of which, if the proposed alteration takes place, they will be absolutely deprived.

By that article of the Constitution, to which I have so often had occasion to allude, and in which it is now the object to make so material an alteration, it is provided "that two persons shall be indiscriminately voted for as President and Vice President, by the Electors in the respective States, one of whom at least shall not be of the same State with themselves." In carrying this provision into operation, the larger States must necessarily do one

of three things. They must either (in the hope of securing to themselves both the President and Vice President) give an equal number of votes to the two candidates whom they may agree upon, or at least a very large portion, if not exactly an equal number of votes to them both; or, confining themselves to the securing the office of President to the individual whom they prefer, they must be satisfied to give one of the two votes to which each of their Electors is entitled exclusively to him, and throw away the other. What follows in either case? In the first place, if two candidates have an equal vote, and at the same time a majority of the votes of the whole number of Electors appointed, it devolves on the House of Representatives to select which of them they please as President; and as the Constitution has (in the spirit I have already described, and for the purpose of affording every possible check and security to the smaller States, which the nature of the thing would permit) provided, that in every instance in which the choice of the President devolves on the House of Representatives, the votes shall be taken by States, and the whole representation of each State shall have one equal vote—it follows of course that in every case of this kind, they are all, large and small, placed precisely upon an equal footing. But in the case of two or more candidates having an equal vote, yet less than a majority of the votes of the whole number of Electors appointed, a further advantage accrues to the smaller States, for then, according to the Constitution, they not only vote by States, the representation of each State having one vote, but they may choose the President from the five highest candidates on the list, and of course have a wider field for choice, and a greater and even equal chance of making him President whom their Electors perhaps had originally supported as such.

In order to avoid this, suppose the larger States support two candidates, giving to the one however a few less votes than to the other. What advantages in this instance are afforded to the smaller States? Why, in the first place it gives them a greater chance of bringing in their own candidate, at least as Vice President—for their opponents, in order to secure to themselves the office of President, and to avoid an ultimate election by the House of Representatives, have not thought proper to give their full support to him whom they run as Vice President; but have thrown away from him a part of their votes. In the next place, if it is discovered (and this will not always be as difficult a point to ascertain as might at first view be supposed) how many votes are to be thrown away, the Electors of the smaller States may give an equal number of votes, and thus, putting the two candidates on an equality, bring the final election into the House of Representatives, where each State representation has an equal vote in deciding the election.

Nor is this their only alternative, for although it is true that they will not, from their inferior number of votes, have it in their power to select from all the citizens of the Union the individual

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whom they might prefer, yet, in the case supposed, (of the larger States giving a considerable portion, though not exactly an equal number of votes to the two candidates, whom they have determined to support,) the smaller States will at least have it at their option to choose between the two candidates, and by giving him their votes, insure the election of that one of them against whom they have the fewest objections, and who sensible that the preference given him in the election ultimately turned on their votes, and possibly not being taken from the very largest and most powerful States, would probably feel less inimical to their interests, and in fact have it less in his power to injure them.

The third and last case is that in which the large States, in order to secure the election of the individual they wish to the office of President, unite in giving one of the two votes to which each Elector is entitled exclusively to him, and throw away the other. The obvious and necessary consequence is, that the Vice Presidency remains completely at the disposal of the small States, and they make whom they please Vice President—a point of far more importance than gentlemen seem to suppose, or are perhaps aware of. It is in the first place to be recollected, that as the person who will usually be thought most worthy of being raised to the office of Chief Magistrate will most probably be advanced in years, there must be more than the common chances of his demise in the course of the term for which he was elected, and of the heir apparent, the Vice President, consequently succeeding to his station, and becoming himself in fact the President. Exclusively, however, and waiving this consideration, let it be moreover recollected, that the Senate have a part of the treaty-making power, participate in the appointment of the Judiciary, and of the other public officers, and form in short, to a certain degree, a portion of the Executive branch of the Government. Now all the States have an equal vote in the Senate, and the Vice President is *ex officio* President of the Senate. He enjoys therefore all the influence necessarily attached to such an office, and to the character of heir apparent; and he has, in addition, the peculiarly important right of giving the casting vote in all cases of an equality of votes in the Senate, an assembly composed of so very few members. Such then is the importance of the Vice Presidency, and such the influence and protection which in every point of view the indiscriminate mode of electing the two first officers in our Government affords. And is all this nothing, sir? Does the alteration proposed really constitute a proposition so plain, so self-evident, so unencumbered with anything like a difficulty or doubt, as not to require a moment's thought, or be worthy of the least investigation or discussion? Is it possible that any one within or without these doors will deny, after what I have just stated, that we are about to make a serious and important innovation in the vital principle, the very essence of the Constitution? Are we not in fact and in truth acting upon the maxim, "that from those who have not, that

which they have shall be taken away, whilst to those who have, more shall be given?" Shall we not by this alteration lessen the chances of the smaller States, and take from them one of the most effectual checks, one of the most essential safeguards, in respect to the election of the Executive branch of the Government, which was secured to them by our national compact; and add, at the same time, to the preponderating and over-weening influence which the larger States have heretofore possessed, the evident means and moral certainty of disposing at pleasure of the whole Executive department? These must necessarily be the consequences of the proposed alteration in the Constitution; and for my own part, I must say, that it appears to me to give a death-blow to that portion of the State sovereignties which has been reserved to the several States, and that we thereby take a monstrous and more than a gigantic stride, towards that very consolidation of the States against which gentlemen have been wont of yore so bitterly to exclaim. For we may boast as much as we please; we may say what we will of our moderation, sincerity, and political virtue; we may give every security which can be devised upon parchment or upon paper, and endeavor to render it more sacred by seals, and even by oaths; still, so long as human nature remains human nature—where power exists on the one side and weakness on the other—there ever will arise ambition, and the inclination to obtain additional power on the part of the most powerful; and consequently, in proportion as you add to the means of encroachment already possessed by the large, and lessen those of defence and self-protection heretofore given to the small States, in the same proportion do you throw the latter at the mercy, and invite the aggression of the former, and thereby carry us further from a federative, and draw us nearer to a consolidated government.

I am perfectly aware, Mr. Speaker, that the ground I take is not the popular one of the present day. I well know that the principles for which I contend, and upon which our national compact was originally formed, have no longer the same influence on the public feelings, nor are they regarded in the smaller States with that degree of interest with which they were wont to be at the time the Convention met and the Constitution was adopted. The prosperity we have enjoyed for fourteen years past, under the auspices of the General Government, has happily done away State jealousies in a very considerable degree. The occurrences which have since intervened, the new interests which have sprung up, and the different shapes which parties have assumed, have all contributed to lessen the impressions and obscure the grounds and basis upon which the great bond of our Union was framed and bottomed. This happy and natural effect of the successful experiment we have made in our political association, must give pleasure to every friend of his country; and so long as the original compact which unites and forms us into a band of brothers continues to be held sacred, and no attempt is made to innovate upon and alter the principles

upon which it was formed, I should rejoice as much as any man at this union of sentiment—this mutual confidence among the members of the Confederacy; but when I see (it matters not whether intentionally or from inadvertence) that advantage is about to be taken of this circumstance, that in the moment of party irritation and party zeal, and at a time when it may be truly stated that the influence and interests of the larger States are completely triumphant, and many of the smaller States, unconscious of danger, are enlisted from various causes under their banners; that at such a moment a proposition is brought forward to alter the Constitution in one of its most important features, and, under the plausible pretext of giving effect to the will of the people, the small States are at one blow to be deprived of the checks and safeguards secured to them by the Federal compact in the election of the Executive, and this important branch of the Government is henceforward and forevermore to be put entirely and exclusively into the hands of the larger States; when I see and behold all this, I acknowledge that I do feel the most serious alarm, and feeble and unavailing as my voice may be, I still deem it a duty incumbent on me, as one of the immediate citizens of a small State, no less than as a member of this House, and consequently a sworn guardian of the Constitution, to raise that voice, and loudly to protest against the innovation which it is contemplated to effect in the fundamental and vital principles of the compact which unites these States together.

I am not ignorant, however, that a very different turn has been given to this business; that the proposed alteration in the mode of electing the President and Vice President has been presented under a very different aspect to the public view. A respectable member from Pennsylvania (Mr. GREGG) has indeed undertaken to give us the whole history of the amendment, as he terms it, and infers from thence, that such an alteration in the Constitution has been long contemplated and wished for by all parts of the Union. He tells us that a former member from South Carolina, the State I have the honor at this time to represent, had brought forward a proposition to the same effect; that a similar one had once originated in New Hampshire; that the State of New York had two years ago submitted to the consideration of Congress a resolution proposing in substance the very alteration now about to be adopted, and that it had been before us during both of the last sessions. All this, sir, is no doubt true, but I draw a very contrary inference from it to that of the honorable gentleman. He has proved to be sure that certain individuals, some parts even of the Union, have at different times, for party and local purposes, or from whatever cause, proposed and perhaps been desirous that an alteration of this kind should be made in the Constitution. He has proved however at the same time, and not less evidently, that the great body of the Union have always been opposed to any such change; that the public mind has not heretofore been ripe for it: and even at this moment, sir, I feel the most

perfect conviction, that if the people had time and could take a correct and temperate view of the real merits of the question, if the irritation of the moment, the party feelings of the day, could be laid aside, the small States in particular could never become so wantonly *felo de se*—to commit such evident self-murder—if I may be allowed the expression—nor could the Constitutional majority in the two Houses of Congress, still less the Constitutional number of States, ever be found to ratify so great, so all important an innovation and change in the fundamental principles of the Federal compact. The chance of ultimate success depends, I am confident, even now, upon the party feeling and party zeal of the times, and the irritation which was excited and has been so industriously kept up since the late contested election of the President. I was myself, as you know, sir, one of the actors in that scene, and I may venture to say, that, from the peculiar situation in which I was placed, I had it in my power to judge more coolly and dispassionately of the occurrences of that day than almost any other individual in the United States. It is well known to every one who knew anything of me at the time, that I was a warm, sincere, and zealous advocate of the two gentlemen who were understood to be the Federal candidates. The majority of the Electors, however, having given the votes to the two candidates who were brought forward and supported in opposition to them, and they having been found to have equal votes, it devolved upon the House of Representatives to fix upon the one of the two characters who should fill the office of Chief Magistrate. In this state of things, it is no secret, that although we afterwards voted by ballot, that I separated from my political friends, and those of my colleagues who were on the floor, and performed the painful task of acting in direct opposition to them; I consequently voted invariably for the candidate who ultimately prevailed, and now fills the office of Chief Magistrate of the United States, until the last ballot, when I withdrew into an adjoining committee room, in order to facilitate a decision of the contest. Situated as I was, therefore, it may well be imagined that I could not be over zealous, or feel any very peculiar interest in the success of either of the two candidates who were opposed to each other. I had acted according to the best of my judgment, and in compliance with the dictates of my conscience, in voting for the one; while my political friends gave a preference to and supported the other. I could consequently take a perfectly dispassionate view of the subject, and must say that the zeal and violence of party appeared to me to give much more importance to the contested election than it was intrinsically entitled to. I showed, by my vote, my own opinion and wishes to be in favor of the person who was elected; and inasmuch as I believed that he would be more acceptable to the majority of our fellow-citizens out of doors, and more especially to those in that portion of the Union from whence I came, and of whose opinions and feelings I could judge most correctly; inasmuch, I acknowledge, that I should have re-



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gretted and deemed it a misfortune if the election had terminated differently.

But, sir, I could not then suppose, nor do I yet think, that the salvation and political happiness of the Republic depends so entirely on the election of any one man as President, however great or good he might be; nor could I persuade myself that it would be so monstrous and terrible an event, in an elective yet complicated government like ours, if, of two individuals brought forward by precisely the same description of Electors, to fill the two first offices under the Government, that one of them, whom they were supposed to hold up for the second office, (and consequently in case of accident to the other to supply his place, and be to all intents and purposes Chief Magistrate,) should have been preferred by their political opponents, and through their means have in the first instance been constitutionally elected to the highest office. I well know that of the two federal gentlemen whom I had originally advocated, although I should no doubt have given a preference myself to the one, yet I should have been perfectly satisfied to see either of them put at the head of the Government, had they had the majority and equal votes; for, I repeat it again, I cannot persuade myself that the political salvation of the Republic depends upon the election of any man as President. To me indeed it appeared, during the whole course of the election, that there was one result far more to be deprecated, and which might have given rise to consequences beyond the ken of human foresight. I frequently shuddered at the idea, that it might possibly happen, from the enthusiasm of party zeal, the violence of party prejudices, and the irritation of the moment, that neither side would give way, and the country might be left in a sort of interregnum, without executive officers, or perhaps any Constitutional means to obtain them; and it has often struck me as a peculiarly fortunate circumstance that the contest was between two individuals originally brought forward by Electors of the same political description, and not between the favorite candidates of the two opposite parties, each supported by his immediate party friends. In my humble opinion, the great desideratum, the only thing necessary to be done, is to make some provision, which would insure, in such or any other case in which the election of the Executive devolved on the House of Representatives, that a selection of one or other of the candidates should take place before the House separated, or its political dissolution took place; or that, if an election did not take place, one of the candidates, in consequence of superior age or whatever other cause of preference might be deemed most eligible, should of course be the President. I have not however touched upon the late contested election, in the intention of discussing the *pro* and *con* with respect to the relative merits of it, neither is it my intention to deny the abstract proposition, that the will and the wishes of the people ought to be consulted in elections. I wish only to show that this alteration—even allowing it for a moment to be desirable, yields but a partial remedy, to a partial and comparatively speaking trivial and temporary

inconvenience, whilst we leave a most awful and very possible event unnoticed and unguarded against.

My further object has been, to recall to the recollection of this House, and, as far as my feeble voice avails, of the nation at large, that our Government is not only Republican but Federal; that the provisions of the Constitution are of a very complicated nature; that they have been formed upon the general principles of free government, so modified as to comport with those of a federative alliance; and at the same time to quiet the fears, jealousies, and apprehensions, and to compromise the clashing interests and opposite pretensions of the respective States which compose this great and flourishing Union. I beg of gentlemen therefore to pause and reflect, and then decide, whether it be really correct and agreeable to the dictates of sound sense and good policy to alter or rather totally annihilate one of the great and leading features of an original compact, in order to obviate, at the most, a momentary inconvenience. For I trust I have gone far enough to prove, whilst I venture to foretell, without pretending to the gift of prophecy, that a case similar to the one which has lately taken place will never again happen; yet that if such an event should again turn up, and of two individuals who had an equal number of the votes of all the Electors appointed, the one should be made President, (by the selection of the House of Representatives voting by States,) and in consequence of the present indiscriminate mode of election, who might not perhaps be the most immediately acceptable to the majority of all the inhabitants of the Union, taken in the aggregate, (and the inhabitants of the large States must of necessity form such a majority,) yet I say, should such an event take place in the course of things, I have I trust gone far to prove that it is at worst, but a partial, temporary, and very restricted evil, arising necessarily out of a peculiar form of government, the natural consequence of our territorial divisions and the political provisions and modifications advisedly adopted to compromise our various interests, foreseen at the time our national compact was formed, yet adopted as a minor and necessary sacrifice to prevent far greater evils; and as presenting the best, perhaps the only mode of compromising the jarring interests, of satisfying the opposite pretensions, and of quieting the jealousies, fears, and apprehensions of the various members, so unequal in size, power, population, and riches, who are at this time so happily united in one great confederacy.

Such, Mr. Speaker, is, in my humble opinion, the true point of view in which this and every other proposition to alter our national compact ought ever to be considered—such is the point of view in which the subject now under consideration has presented itself to my mind. I have therefore complied with my sense of duty and obeyed the dictates of my conscience in opposing the alteration to the Constitution, which it is now proposed to make. I know full well the popular feelings and sentiments are against me on this question, and that what falls from a gentleman on

this side of the House, is, in the actual state of things, not very favorably received out of doors, and for the most part attributed merely to party feelings and party opposition. In the present instance, however, I can in honor and with truth declare that I act from no party motive or party considerations whatever. My objections and opposition to the resolution on your table, are the result of a sincere conviction in my own mind, after the most dispassionate and attentive consideration I have been able to bestow on the subject; and I most fervently pray that whilst we are endeavoring to extricate ourselves from a dilemma of secondary importance, necessarily growing out of our peculiar mode of government, and to provide a remedy against a partial inconvenience, we may not inadvertently place ourselves in a labyrinth of difficulties and expose our posterity to a multitude of evils, more fatal to the peace and happiness of this Union, than we are any of us at this time aware of.

MR. HASTINGS.—Mr. Speaker, I do not rise for the purpose of going into an elaborate discussion upon the subject of the proposed amendment to the Constitution, (for that has been already very fully debated,) but merely to state some of the reasons which will influence me in voting against it. I have always believed, sir, that the Federal Constitution was as much the result of compromise and mutual concession, as of great deliberation and wisdom; and that alterations in this charter of our national union ought to be made with extreme caution. In respect to the amendment proposed, I have understood that in the Convention of delegates that framed the Constitution, variety of ways for electing President and Vice President were proposed and all rejected, until the new Constitutional one was offered, which was agreed to; with this mode of electing a President and Vice President, I am satisfied. I believe many advantages result from it; by the present mode, the Electors in giving their votes for two persons to be President and Vice President, will be induced (from the uncertainty which of the two voted for will be elected President) to give their ballots for two persons, either of whom shall be well qualified to discharge the important powers or duties of First Magistrate of the nation. But, if the proposed amendment prevails, will not the office of Vice President, in all future elections, be considered as a mere sinecure? And though the person voted for to fill the office may be well qualified to perform the duties incumbent upon him as President of the Senate, yet he may be wholly unqualified to fill the office of President of the United States, and a person in whom the American people would have no confidence as such: but by the proposed amendment, upon such unfit person—in the event of the removal of the President from office, death, resignation, or his inability to discharge the duties and powers of the office—will devolve all the duties and powers of First Magistrate. Another advantage that I conceive may be the effect of the existing Constitutional mode of electing a President and Vice President, is, that it may be the means of checking and mod-

erating the rage and violence of party spirit, and of controlling and putting down faction, by the election of a President who may be agreeable to the wishes of the minority, and thereby produce an equilibrium of power between contending parties. Besides, sir, I fear, if the amendment obtains, that it may give a weight and influence to the large States in the Union, in the election of a President and Vice President, that they ought not to possess; and though I have the honor to be a Representative from a State of some consequence in the Union, on account of its population and resources, still I cannot wish that Massachusetts, in this or any other way, should acquire any undue advantage or improper influence over the smaller States.

In fine, the reasons and arguments that I have heard in this House in the course of the debate, particularly those offered by the honorable gentleman from South Carolina, last up, (Mr. HUGER,) have convinced me that the proposed amendment ought not to be made. I will not say, Mr. Speaker, that the Constitution is perfect in all its provisions; there is a particular part of it, in article first, section second, and third paragraph, that fixes the rule of representation, which I wish to see altered in due time. I wish to see this part of the Constitution altered, because I wish to see upon the floor of this House an equal representation of free citizens, and of free citizens only. As the Constitutional rule now is, the representation is made unequal. But this it will be said was also the effect of a spirit of accommodation and compromise. It was a compromise, however, by which one part of the Union has obtained a great, and in my opinion, unjust advantage over other parts of the Union. A compromise, sir, by which the Southern States have gained a very considerable increase of Representatives and Electors, founded solely upon their numerous black population. I hope, sir, that in the year 1808, an alteration will be made in this part of the Constitution, and that the representation, by being proportioned only to the number of free persons, will be rendered equal and just. I hope, also, that those gentlemen who now advocate the proposed amendment to the Constitution, will then, if members of this House, be also the advocates for altering and amending this part of the Constitution—the friends and advocates of an equal representation, founded upon the population of free persons only. I will not occupy the attention of the House with further observations, or repeat what has already been said by gentlemen against the amendment: I will only say that, in my opinion, it is neither necessary nor expedient to make the proposed alteration in the Constitution, and that I hope it will not be made.

MR. THATCHER.—Having waited in expectation of hearing the arguments of gentlemen in favor of the resolution, I feel great regret at the silence which they have thought proper on this occasion to observe. This course, though not entirely novel, was not anticipated upon a question of great national importance; a subject which invites, which demands investigation.

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My colleague (Mr. EUSTIS) has stated to the House that, in the year 1797, the Legislature of Massachusetts voted to instruct the Senators and to request the Representatives of that State in Congress, to propose an alteration of the Constitution similar to that now proposed. A gentleman from New York (Mr. THOMAS) has informed us that a similar vote passed in the Legislature of that State. As these two statements are the only answers (if such they can be considered) to the various arguments which have this day been adduced in opposition to the resolution, and as the gentlemen who have made them appear to consider these votes of the State Legislatures obligatory upon the members of the House who now represent those States, I beg leave to state as succinctly as possible some of the reasons which will induce me to vote against the resolution.

An amendment of the Constitution must be sanctioned not only by two-thirds of both Houses of Congress, but must be ratified by three-fourths of the State Legislatures. The Constitution considers these different Assemblies as entirely independent of each other. They must act with perfect independence upon this subject, or this provision of the Constitution is virtually destroyed. Most certainly the resolution of a State Legislature, in 1797, ought not to control the votes of members of this House in 1803. It is, I conceive, not only their right, but their duty to decide upon this question with the most perfect independence of opinion.

It has been already urged that the Constitutional mode of electing the President and Vice President is admirably calculated to disappoint intrigue and prevent corruption. Should an aspiring and dangerous faction obtain the ascendancy in this country, this mode of election affords the means of counteracting its influence, of checking its control. For although such a party will make the greatest exertions to elect that leader who may chance to be the idol of the day, while the Electors are obliged to vote for two candidates, without designating which is intended, those Electors who are not devoted to the interest of the ruling faction will exercise a preference of great importance, they will select the candidate least exceptionable.

The article, which this resolution proposes to alter, has always been considered as the great barrier and shield of the smaller States against the encroachments of the large. By the present mode of election, provided it is effected by the Electors, each State has its due proportion of influence. If it be decided by the House of Representatives, the Constitution has put the States upon the ground of perfect equality. But, if the proposed alteration takes place, it will undermine the very basis of the Confederacy; it will throw the whole power, in this most important election, into the hands of a few States exclusively. With the present population five States may, by combination, exclude the other twelve from all participation in the choice. It will be totally impossible, by any precaution whatever, to prevent such a combination.

The situation of the States forming the Federal Constitution, and the nature of the compact itself, furnish strong evidence of the policy of the article under consideration. It was absolutely necessary that some of the rights of the individual States should be secured for the interest and safety of all. This Constitution, to use the language of the Convention who framed it, "was the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our political situation rendered indispensable." Upon no other principle is it possible to account for that article of the Constitution which provides for the representation of slaves. This article operates with peculiar inequality in the Northern and Eastern States.

The representation of slaves adds thirteen members to this House in the present Congress, and eighteen Electors of President and Vice President at the next election. Yet the whole of New England contains but thirteen hundred and thirty-one slaves. Massachusetts and Vermont have none.

The New England States have submitted to this inequality, sensible of the extreme danger of tampering with the Constitution. But, if it is to be altered, justice requires that the article authorizing the representation of slaves should be the first to receive amendment.

Mr. Speaker, I know that the objections to the article proposed to be altered are plausible—they are popular; but I am confident that, upon close examination of the different modes of electing our First Magistrate which have been proposed, none will be found to combine so many advantages as that prescribed by the Constitution. The Journal of the Convention evinces that this was a subject of long discussion and mature deliberation. It was devised by a most illustrious assembly of sages and patriots; it was adopted at a time when the heat of party had not influenced the country; shall we then, at a time when party feelings animate all parts of the Union, shall we destroy one of the firmest pillars of our political fabric? I trust, sir, we shall not venture into the boundless region of hypothesis, that we shall not alter one of the fundamental principles of the Federal Constitution.

Mr. J. C. SMITH rose and observed, that the friends of the resolution had been so occupied with its details, he feared they had lost sight of its principle. And he was not a little confirmed in this suspicion, from their profound silence on the present occasion. But as he felt so, he could not but express a faint hope that a Constitutional majority of the House would not be found to yield their assent to the proposition. Mr. S. said, it was worthy of remark that no alteration had yet been made in the national compact. Of the eleven articles subjoined to the Constitution as amendments, ten were mere declarations of certain rights, not materially affected by that instrument, and which had their origin in State jealousy, and the remaining one was intended only to settle the construction of an article in the Constitution which had before been considered of doubtful im-

port; he alluded to the amendment respecting the suability of States.

It had been repeatedly acknowledged, Mr. S. said, by gentlemen on all sides of the House, that the Constitution of the United States was an affair of compromise—the result of a spirit of amity and mutual concession. But was there a gentleman on that floor who could inform what were the precise terms to that compromise? What sacrifices were made? What equivalents were given? If so, he would thank him to state to the House what mighty boon was accorded to the eastern section of the nation in return for that remarkable provision of the Constitution, which permits slaves to become a basis of representation in that House, and which indeed renders them no inefficient agents even in the choice of the Chief Magistrate himself. For his part, Mr. S. said, he would confess he knew not what recompense could have been adequate to so extraordinary a concession. In truth, neither he nor any other member present could declare the exact manner in which the jarring interests, the conflicting claims of the several States, were adjusted in Convention. It, therefore, became a matter not only of delicacy but of extreme hazard, to touch the instrument with ever so slight a hand, lest the arrangement, thus happily made, should be broken down and destroyed.

Mr. S. said, he had ever understood the smaller States were, in Convention, peculiarly tenacious of that particular provision in the Constitution which was now proposed to be modified. The reasons were apparent—and they had been so clearly and forcibly stated by the gentleman who had preceded him, that it was quite unnecessary for him to detain the House upon that point. The consequence of those States, in the election of President, was thereby, in some measure, preserved; they were enabled, in some degree, to counteract any combination which might be formed between four or five of the larger States to keep the office of Chief Magistrate in perpetual rotation among themselves. But, Mr. S. said, cogent as these reasons were, he apprehended they were not the only object of the provision. He said, it was no doubt desirable that the Executive power of the Government should be vested in an individual; but the Convention must have perceived, as indeed it was very obvious, that such an office in an elective Government must become a prodigious lure to ambition; that as the power, the patronage, the duration, and the emoluments of the office were augmented, in the same proportion would be the violence of competition between rival candidates, in the same proportion would the order and tranquillity of the nation be endangered at the return of every election. This evil, so formidable in its nature, if not rescinded, is at least mitigated by the existing provision of the Constitution. For, while it effectually secures to the nation an eventual choice, it places it wholly beyond the reach of any candidate to calculate confidently on the issue of his pretensions. Such an uncertainty, arising not from the casualties incident to ordinary elections, but from the circum-

stance that even a majority of the electoral votes may not ultimately secure the office, must ever form a powerful check to corrupt or ambitious views. The aspiring demagogue, willing to barter wealth for distinction, would hardly be induced to lavish his treasures upon so hazardous an experiment. And even the man in possession of the office would scarcely be tempted to use unworthy means to retain it, when its preservation must be so much a thing of chance. It was, (Mr. S. said,) to complete this refined process; to complicate it in such a manner as to effectuate this great object alone, that the office of Vice President was instituted. And I demand of gentlemen what apology they will make to the American people for retaining this officer if the present amendment is to prevail? What duties has he to perform other than such as are devolved upon the Speaker of the House? Why will you pay him five thousand dollars, annually, merely to preside in the deliberations of the Senate, who might as well elect one of their own body for that purpose? And why, sir, will you keep here a high officer, with a liberal salary, for no other earthly purpose than to enable him, from his proximity to the Government, to cabal with greater effect for the succession? If pretensions to economy rest not solely in profession, gentlemen will now abolish this sinecure; they will finish their amendment by expunging the office of Vice President from the Constitution.

Mr. S. said he would close his remarks by seriously asking gentlemen whether the present resolution had not grown out of an overweening anxiety to secure, at all hazards, the re-election of the present Chief Magistrate?

The SPEAKER said it was improper to introduce the Chief Magistrate into the debate.

Mr. SMITH said he was not about to speak disrespectfully of the President, but he would say that no modification whatever of the Constitution, having for its object either to enlarge the power, or to facilitate the attainment of that office, ought to be attempted, so long as the incumbent, whoever he may be, is considered as a candidate for a re-election. Sir, said Mr. S., I will again ask gentlemen, whether they will suffer themselves to be influenced on this great question by their predilection for an individual? Are they prepared to immolate the Constitution of their country upon an altar erected to private friendship and personal esteem? Will they remember that the conservative Senate of France “desirous of furnishing a proof of national gratitude,” proposed to the French people, to amend their Constitution by creating Napoleon Bonaparte Consul for life! If the two cases are not altogether parallel, who can say there is much difference in principle? And who, sir, will be answerable for the consequences, if the National Legislature will permit themselves to be governed by considerations of a personal nature, when acting upon a subject infinitely momentous, not only to themselves but to remotest posterity?

Mr. THOMAS said that he was in favor of the amendment as it then stood in the resolution, and

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hoped that it would receive the support of a Constitutional majority of that House. At the same time, he confessed that he should have been better satisfied had it gone no further than to designate the President and Vice President, because he thought the more it was trammelled with detailed provisions, the greater the hazard of its final ratification by the respective State Legislatures.

He was not at all alarmed at the variety of opinions which had been expressed on that question, even by those in favor of the general principle. On a subject of so much importance to the welfare of this country, it was natural to expect a difference of sentiment, as to its bearings, and the lengths to which it ought to go. He was happy, however, to find the appearance of a disposition on the part of those honorable gentlemen to concur in passing the amendment, since it embraced the important object of designation, although it was not shaped exactly agreeable to their wishes. He rejoiced to find that, with respect to the great principle contained in the resolution, there appeared but one opinion in that House, unless it was from a quarter from whence we look for opposition on all occasions.

On this question, however, said Mr. T., I do confess that I am greatly disappointed in finding two of my honorable colleagues (Mr. LIVINGSTON and Mr. G. GRISWOLD) hostile to this measure; considering that the Legislature of the State from which those gentlemen are Representatives, in January, 1803, unanimously recommended, in the most impressive terms, the adoption of this amendment to our Constitution, notwithstanding at that time a respectable minority of one branch, and a large majority of the other, coincided with those gentlemen in political sentiment. Knowing this, Mr. Speaker, I did expect, and I think I had a right to expect, different conduct on the part of those honorable gentlemen on this occasion. With the permission of the House, he would read a letter addressed to him as a Representative of the State of New York, on that floor, by the President of the Senate, and Speaker of the House of Assembly of that State, enclosing two resolutions, one of which embraced this object.

[Here Mr. T. read the letter alluded to, and then remarked, that it was not his intention to enter into the merits of the question; he only rose with a view to state this circumstance, and to express his disappointment in finding those gentlemen opposed to this amendment.]

Mr. LIVINGSTON said he should not have risen but for the remark of his colleague, (Mr. THOMAS.) He had, at the time alluded to, the honor to be a member of the Legislature of New York, but he was in a small minority. He had then the same opinion of the majority as at present. He did not, therefore, imagine that anything that came from him would succeed, and did not think it in the least useful to oppose himself to the torrent.

Mr. EUSTIS did not rise to discuss the merits of the amendment, but to answer the call of his colleague, (Mr. HASTINGS.) In 1797, as well as he recollected, the Assembly of Massachusetts instructed their Senators and advised their Repre-

sentatives to vote for an amendment to the Constitution, founded on the same principle with the present amendment. He presumed the gentleman from Massachusetts was ignorant of this fact, or he would not oppose the voice of the people of that State.

Mr. HASTINGS confessed his ignorance of this circumstance. But, had he known it, he should not have considered himself bound to make sacrifice of his own opinion to such instructions. He had no idea that, when a person was chosen to represent the people, he was under any obligation to pursue a line of conduct contrary to the dictates of his own mind, whatever might be the instructions of his constituents. If, after a thorough consideration of a measure, which he should be thus instructed to vote for, he should be convinced that it would operate against the interest of his constituents, he asked if he were not under a solemn obligation to act in opposition to his instructions? Because such measure, if carried into effect, might operate to the disadvantage, perhaps destruction, of the public good. He would not, however, enter into a discussion of this point, but satisfy himself with saying that, if he was instructed by every free citizen of Massachusetts to vote for a measure, which, after mature reflection, he was convinced would prove injurious, he should pursue the dictates of his own judgment and vote against it.

Mr. DANA.—It is extraordinary that the gentleman (Mr. EUSTIS) should rise to make this explanation. Does he mean to say to the Representatives of the people, the State Legislatures may issue their mandates to you, and though they are not your constituents, you shall, nevertheless, obey them? They are not our constituents; they are not authorized to give us instructions; and we are not bound to obey them when given.

Mr. EUSTIS said, he had barely risen to give the honorable gentleman from Massachusetts information; he had not expected to call up his champion from Connecticut, behind him. He had risen merely to state a fact, for the information of his colleague, as, from the observations he had made, it might be inferred that the State of Massachusetts was adverse to the principle of this amendment. It was far from his intention to oppose the sentiments of the Legislature of Massachusetts to the will of that House. He honored the independence his colleague expressed. It was, to be sure, an independence that went to the utmost limit a Representative could have of his constituents. Yet, he did not censure him for asserting it.\*

\* On a subsequent day, Mr. Eustis stated that he had made inquiry respecting the instructions of the Legislature of Massachusetts, to which he had on a preceding day referred, without having been able to obtain satisfactory information. He was inclined to think he had been in error in stating their existence; and, with this impression on his mind, he considered it due to his colleague (Mr. Hastings) to render an apology for the remarks he had applied to him.

Since the period of the above debate, a letter has been addressed to the Secretary of the Commonwealth

Mr. THOMAS asked his colleague, (Mr. LIVINGSTON,) as a member of the Legislature of New York when instructions were given to vote for a similar amendment, whether a majority of the Senate of that State were not of the same political sentiments with himself?

Mr. LYON said, he should not have risen on this occasion had he not heard the old subject of irritation harped upon. Gentlemen opposed to the amendment of the Constitution, under consideration, had introduced the hackneyed topic of the representation of the slaves, and talked of that as being a sacrifice in the formation of the compact on the part of the States who held no slaves, and as included in the general compromise; for himself, although he had formerly the honor of representing a State where there were no slaves, and now had the honor of representing a State where slavery is allowed of, he had not changed his opinion, nor held two opinions on the subject; he always considered the article of the Constitution alluded to as containing the compromise on that subject within itself, and that the sacrifice was on the part of the people where slavery is admissible. Numbers was agreed on as the basis of representation; it certainly was the best criterion to form an estimation of the property and of the ability of the States to contribute to the public expenditure; but the States where the blacks were free, say to the States where the blacks were slaves, your slaves must not be counted in the

numbers to be represented. The natural reply was, why not count our black people as well as you count yours? we enter not into your local policy, nor examine what kind of freedom you allow to black or white; yet they gave up two-fifths of their slaves as a compromise, so the sacrifice was made by them. For my own part, said Mr. L., the opportunity I have had of feeling the operation of both the freedom and the slavery of the black people, convinces me that the blacks who are slaves are much more useful and beneficial to the community and to the nation, according to their number, than those that are free; and I always have considered this subject, when brought up, as mere matter of exclamation, and intended to create popular murmur and discontent.

On the question whether the resolution should pass, it was carried in the affirmative—yeas 88, nays 31, as follows:

NAYS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George M. Bedinger, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, Peterson Goodwyn, Andrew Gregg, Wade Hampton,

of Massachusetts on the subject, who has returned a certified copy of the instructions, the nature of which appears to have been correctly stated by Mr. Eustis. It will be perceived that their date varies from that stated by him, and that they are more recent by two years than he represented them. They are as follow:

*Commonwealth of Massachusetts.*

IN SENATE, Feb. 28, 1800.

Whereas the Legislature of the State of Vermont, on the fifth day of November last, passed two resolves, in the words following, viz:

“STATE OF VERMONT.

“In General Assembly, Nov. 5, 1799.

“Resolved, That the Senators and Representatives of this State in the Congress of the United States be, and they hereby are, requested to use their best endeavors that Congress propose to the Legislatures of the several States the following amendment to the Constitution of the United States, viz: That the Electors of President and Vice President in giving in their votes, shall respectively distinguish the person whom they desire to be President from the one they desire to be Vice President, by annexing the word President or Vice President, as the case may require, to the proper name voted for; and the person having the greatest number of votes for Vice President, if such number be a majority of the whole number of Electors chosen, shall be Vice President; and if there be no choice, and two or more persons shall have the highest number of votes, and those equal, the Senate shall immediately choose by ballot one of them for Vice President; and if no person have a majority, then from the five highest on the list, the Senate shall in like manner choose the Vice President; but in choosing the Vice President, the votes shall be taken by States, the Senators from each State having

one vote. A quorum for this purpose shall consist of a member or members from two-thirds of the States; and a majority of all the States shall be necessary to a choice. And in case the Senators and Representatives of this State in Congress, shall find that the aforesaid amendment is not conformable to the sentiments of a Constitutional majority of both branches of the National Legislature, they are hereby requested so to modify the same as to meet the sentiments of such majority.

“Provided, however, That any amendment which may be agreed on, shall oblige the Electors to designate the person they desire to be President, from the one whom they desire to be Vice President.

“Resolved, That his Excellency the Governor be requested forthwith to transmit the same to the Supreme Executives of the several States.”

Which resolves have been communicated by the Supreme Executive of the State of Vermont to the Supreme Executive of this Commonwealth.

Resolved, That the Legislature of this Commonwealth have a high sense of the wisdom and patriotism of the Legislature of the State of Vermont, and accord with them in the opinion, that it is expedient that the Constitution of the United States be amended in the manner contemplated in the aforesaid resolves of the Legislature of the State of Vermont.

Resolved, further, That the Senators and Representatives of this State in the Congress of the United States be, and they are hereby, requested to adopt these necessary measures to effect the amendment aforesaid.

Resolved, further, That his Honor the Lieutenant Governor be, and he is hereby, requested to communicate the foregoing resolves to the Supreme Executive of the State of Vermont, and also to transmit copies thereof to the Senators and Representatives of this Commonwealth in the Congress of the United States.

Approved, March 4, 1800.

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*The Louisiana Treaty.*

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John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thos. Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jr., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

**NAYS**—John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manassah Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, William Hoge, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jr., Thomas Lewis, Henry W. Livingston, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Sam. Thatcher, and Lemuel Williams.

#### LOUISIANA TREATY.

The bill sent from the Senate, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, and for the temporary government thereof," together with the amendments agreed to yesterday, was read the second time, as follows:

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of and occupy the territory ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, between the two nations; and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the Army and Navy of the United States, and of the force authorized by an act passed the third day of March last, entitled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary, and so much of the sum appropriated by the said act as may be necessary, is hereby appropriated for the purpose of carrying this act into effect; to be applied under the direction of the President of the United States.

**SEC. 2.** *And be it further enacted,* That, until the expiration of the present session of Congress, or unless provision be sooner made for the temporary government of the said territories, all the military, civil, and judicial powers exercised by the officers of the existing Government of the same, shall be vested in such person and persons, and shall be exercised in such manner as the President of the United States shall direct, for maintaining and protecting the inhabitants of Louisiana in the full enjoyment of their liberty, property, and religion.

On the question, Shall the bill pass? the yeas and nays were required, and stood—yeas 89, nays 23, as follows:

**YEAS**—Willis Alston, Isaac Anderson, John Archer, David Bard, George M. Bedinger, Samuel Bishop, William Blackledge, John Boyle, Robert Brown, William Butler, George W. Campbell, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickinson, John Earle, Peter Early, John W. Eppes, William Eustis, William Findley, John Fowler, Peterson Goodwyn, Andrew Gregg, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, Benjamin Huger, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thos. Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Samuel D. Purviance, John Randolph, jr., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Jos. Winston, and Thomas Wynns.

**NAYS**—William Chamberlin, Martin Chittenden, Clifton Claggett, Samuel W. Dana, John Davenport, Thomas Dwight, James Elliot, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, Joseph Lewis, jr., Thomas Lewis, Henry W. Livingston, Nahum Mitchell, Thomas Plater, Joshua Sands, John Cotton Smith, William Stedman, James Stephenson, Samuel Tenney, and Samuel Thatcher.

The House resolved itself into a Committee of the Whole on the following bill:

A bill for carrying into effect the Convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America, and the French Republic.

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That, for the purpose of carrying into effect the convention of the thirtieth day of April eighteen hundred and three, between the United States of America and the French Republic, the Secretary of the Treasury be, and he is hereby, authorized to cause to be constituted, certificates of stock, signed by the Register of the Treasury, in favor of the French Republic, or of its assignees, for the sum of eleven millions two hundred and fifty thousand dollars, bearing an interest of six per cent. per annum, from the time when possession of New Orleans shall have been obtained, in conformity with the treaty of the thirtieth day of April, eighteen hundred and three, between the United States of America and the French Republic, and in other respects conformable with the tenor of the convention aforesaid; and the President of the United States is authorized to cause the said certificates of stock to be delivered to the Government of France, or to such person or persons as shall be authorized to receive them, in three months at most, after the exchange of ratifica-



tions of the treaty aforesaid, and after Louisiana shall be taken possession of in the name of the Government of the United States; and credit or credits to the proprietors thereof, shall thereupon be entered and given on the books of the Treasury, in like manner as for the present domestic funded debt, which said credits or stock shall thereafter be transferable only on the books of the Treasury of the United States, by the proprietor or proprietors of such stock, his, her, or their attorney: And the faith of the United States is hereby pledged for the payment of the interest, and for the reimbursement of the principal of the stock, in conformity with the provisions of the said convention: *Provided, however,* That the Secretary of the Treasury may, with the approbation of the President of the United States, and with the assent of the proprietors of the said stock vary the terms and instalments fixed by the convention for its reimbursement: *And provided also,* That every proprietor of the said stock may, until otherwise directed by law, on surrendering his certificate of such stock, receive another to the same amount, and bearing an interest of six per cent. per annum, payable quarterly at the Treasury of the United States.

SEC. 2. *And be it further enacted,* That the annual interest accruing on the said stock, which may, in conformity with the convention aforesaid, be payable in Europe, shall be paid at the rate of four shillings and sixpence sterling for each dollar if payable in London, and at the rate of two guilders and one half a guilder, current money of Holland, for each dollar if payable in Amsterdam.

SEC. 3. *And be it further enacted,* That a sum equal to what will be necessary to pay the interest which may accrue on the said stock to the end of the present year, be, and the same is hereby appropriated for that purpose, to be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 4. *And be it further enacted,* That, from and after the end of the present year (in addition to the annual sum of seven millions three hundred thousand dollars, yearly appropriated to the sinking fund by virtue of the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States,") a further annual sum of seven hundred thousand dollars, to be paid out of the duties on merchandise and tonnage, be, and the same hereby is, appropriated to the said fund, making in the whole an annual sum of eight millions of dollars, which shall be vested in the Commissioners of the Sinking Fund in the same manner, shall be applied by them for the same purposes, and shall be, and continue appropriated until the whole of the present debt of the United States, inclusively of the stock created by virtue of this act, shall be reimbursed and redeemed, under the same limitations as have been provided by the first section of the above-mentioned act respecting the annual appropriation of seven millions three hundred thousand dollars, made by the same.

SEC. 5. *And be it further enacted,* That the Secretary of the Treasury shall cause the said further sum of seven hundred thousand dollars to be paid to the Commissioners of the Sinking Fund, in the same manner as was directed by the above-mentioned act, respecting the annual appropriation of seven millions three hundred thousand dollars; and it shall be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund, yearly and every year, at the Treasury of the United States, such sum and sums as may be actually wanted to discharge

the annual interest and charges accruing on the stock created by virtue of this act, and the several instalments or parts of principal of the said stock, as the same shall become due and may be discharged, in conformity to the terms of the convention aforesaid, and of this act.

Mr. R. GRISWOLD proposed to amend the fifth section by introducing near the end thereof, after the word "conformity," the following words: "to the provisions of the said act, entitled 'An act making provision for the redemption of the whole of the public debt of the United States.'"

Mr. RANDOLPH and Mr. NICHOLSON considered the amendment as altogether useless. After some consideration, it was lost without a division.

Mr. EUSTIS moved to substitute in the first section, the word "Louisiana" in room of New "Orleans," making the payment of interest on the stock commence at the period when possession of Louisiana, instead of New Orleans, shall have been obtained. Agreed to without a division.

The Committee then rose and reported the bill with this amendment, and the House immediately took up the report and concurred therein; when the bill was ordered, without a division, to be engrossed for a third reading to-morrow.

#### SATURDAY, October 29.

Two other members, to wit: from New York, KILLIAN K. VAN RENSSELAER, and from South Carolina, THOMAS LOWNDES, appeared, produced their credentials, were qualified, and took their seats in the House.

On motion of Mr. RANDOLPH the House went into Committee of the Whole on the bill making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the Government of the United States, by virtue of the convention with the French Government of the thirtieth of April.

The bill appropriates \$3,750,000, inclusive of \$2,000,000 appropriated the last session, and authorizes the President to borrow, at a rate of six per cent., \$1,750,000.

Mr. RANDOLPH moved an additional section appropriating \$20,000 for compensation to commissioners, secretary, and agent for investigating claims, and for contingencies. This sum was afterwards reduced, at the instance of Mr. R., to \$18,750.

The Committee agreed to the amendment, and reported the bill so amended. The House immediately took up the report of the Committee, and agreed thereto, when the bill was ordered to be engrossed for a third reading this day.

The bill was afterwards read the third time and passed without a division.

#### LOUISIANA TREATY.

An engrossed bill for carrying into effect the convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic, was read the third time, and on the question that the same do pass, it was resolved in the affirmative—yeas 85, nays 7, as follows:

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Lost Certificates.

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YEAS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Wm. Blackledge, John Boyle, Robert Brown, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John Earle, Peter Early, John W. Eppes, William Findley, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Manasseh Cutler, Thomas Griffin, David Hough, Joseph Lewis, jr., James Stephenson, Peleg Wadsworth, and Lemuel Williams.

*Resolved*, That the title be, "An act authorizing the creation of a stock to the amount of eleven million two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic, and making provision for the payment of the same."

A message from the Senate informed the House that the Senate disagree to the amendments proposed by this House to the bill sent from the Senate, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States by the treaty concluded at Paris, on the thirtieth of April last, and for the temporary government thereof," and desire a conference with this House, on the subject-matter of the said amendments; to which conference they have appointed managers on their part.

The House proceeded to consider the said message: Whereupon,

*Resolved*, That this House doth insist on their said amendments, disagreed to by the Senate, and doth agree to the conference desired by the Senate on the subject-matter thereof; and that Mr. RANDOLPH, jr., Mr. LOWNDES, and Mr. SANDFORD, be appointed managers at the same on the part of this House.

#### LOST CERTIFICATES.

Mr. J. RANDOLPH called the attention of the House to the subject of lost certificates. He said that he was not prepared to move a general question; but he would offer a specific case, which might bring the whole matter before the House.

He alluded to the case of Philip Bush, on which the Commissioners had never made a report. The Committee of Claims, he said, declined proceeding until the Senate determined upon the subject, and the Senate decided in favor of those who held lost certificates. The House of Representatives refused to concur, and the matter rests. He therefore moved that the case of Philip Bush be referred to a select committee. He said, that he did not wish to interfere with the Committee of Claims, and whether a select committee should determine for or against the petition, it would gain the opinion of the House.

Mr. LEIB said that, if he recollected right, the petition of Philip Bush had been long before the House, and he had hoped there had been an end to it; but he was willing that it should go to a Committee of Claims in order to preserve uniformity.

Mr. SMILIE asserted that it was a rule of the House, that, when once a petition had been decided upon, it could not again be taken up. He thought it a good rule; if it was not so, there would be no end to applications; they would engross the whole time of the House. He knew not, he said, what the petition was; but if it contained anything material to be brought before the House, a new petition could be presented; but he did not wish to deviate from established rules.

Mr. NICHOLSON.—The gentleman who spoke last is perfectly right, provided the fact was as he conceives; but the petition of Philip Bush was never decided upon. The House refused to concur with the report of the Committee of Claims. He had, he said, looked into the records of the Journals, but the leaves were either misplaced or it was not noticed; he therefore thought a new petition would be best, for he should feel great pleasure in hearing the question discussed. There had been many great sufferers by lost certificates, and it was high time to make them satisfaction.

Mr. J. RANDOLPH.—The Committee of Claims made a general report in the year 1800; but I know not whether the petition in question was rejected or not.

Mr. R. then proceeded to search the Journals; which taking up considerable time—

Mr. EUSTIS asked, whether any business was before the House?

The SPEAKER replied, that the Journals were being examined.

Mr. SMILIE said, until it could be ascertained, it had best be deferred.

Mr. RANDOLPH replied that, to oblige his friend, he would for the present withdraw the motion, though he thought that there was sufficient proof before the House that the petition had not been decided upon.

A letter from the Secretary of the Treasury was then read, which stated in answer to an application made to him; that there were several Journals of the House in his office; but not more than were necessary for the despatch of business of the department.

Referred to a select committee.

Mr. MITCHELL then moved, that a committee

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*Mourning for Edmund Pendleton.*

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be appointed to consider on the expediency of reprinting the Journals of the House.

Mr. HUGER observed, that he wished the word "documents" to be added to the motion. He wished the documents from the first time of the sitting of Congress to be reprinted. He observed, that only two copies of those valuable records were in the possession of the House, and in the first volume there was most important business.

After some observations on the words of the motion, it was agreed to.

#### MOURNING FOR EDMUND PENDLETON.

Mr. EUSTIS rose and observed, that within a few days past the House were called upon to take notice of an event which perhaps would be more interesting to posterity than to the present generation; the death of one of those illustrious patriots who, by a life devoted to his country, had bequeathed a name and an example to posterity which he would not attempt to describe. He had information that another of these sages, EDMUND PENDLETON, of Virginia, had paid the last tribute to nature.

On this occasion he begged leave to offer to the House the following resolution:

*Resolved*, That this House, impressed with a lively sense of the important services rendered to his country by EDMUND PENDLETON, deceased, will wear a badge of mourning for thirty days, as an emblem of their veneration for his illustrious character, and of their regret that another star is fallen from the splendid constellation of virtue and talents which guided the people of the United States in their struggle for Independence.

The resolution was immediately taken up, and agreed to—ayes 77.

#### MONDAY, October 31.

Another member, to wit: TOMPSON J. SKINNER, from Massachusetts, appeared produced his credentials, was qualified, and took his seat in the House.

*Ordered*, That the select committee of seventeen members, appointed on the twentieth instant, to whom were referred two motions for an amendment to the Constitution of the United States, respecting the election of President and Vice President, be discharged from the further consideration of the same.

Mr. JOHN RANDOLPH, jr., from the managers appointed on the part of this House to attend a conference with the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act to enable the President of the United States to take possession of the Territories ceded by France to the United States, by the treaty concluded at Paris on the thirteenth of April last, and for the temporary government thereof," reported that the conferees, on the part of this House, did meet the conferees on the part of the Senate, who agreed to report to their House certain modifications of the said amendments.

A message from the Senate informed the House that the Senate recede from their disagreement to

the amendments insisted on by this House to the bill, sent to the Senate, entitled "An act to enable the President of the United States to take possession of the Territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, and for the temporary government thereof."

On a motion made and seconded, that the House do come to the following resolution:

*Resolved*, That provision ought to be made by law for the relief of the owners of the Danish brigantine *Henrick*, taken by a French privateer in 1799, retaken by an armed vessel of the United States, carried into a neutral island, and there adjudged to be neutral, but under allowance of such salvage and costs as absorbed nearly the whole amount of sales of the vessel and cargo.

*Ordered*, That the said motion, together with a report of the Secretary of State, communicated by a message to this House, from the President of the United States, on the twenty-third of February last, and the accompanying documents, be referred to the Committee of Claims; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

The House resolved itself into a Committee of the Whole on the report of the committee appointed on the seventeenth instant, to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House; and, after some time spent therein, the Committee rose and reported to the House their agreement to the same.

*Ordered*, That the consideration of the said report be postponed until to-morrow.

*Resolved*, That the order of the day for the House to resolve itself into a Committee of the whole House on a motion of the twenty-eighth instant, for the appointment of a committee "to inquire into the expediency of extinguishing the claims of the United States for certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, with power to report by bill, or otherwise," be postponed until the first Monday in December next.

*Ordered*, That the Committee of Ways and Means have leave to bring in a bill or bills making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty.

Mr. JOHN RANDOLPH, jr., from the committee last mentioned, presented a bill making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty; which was read twice, and committed to a Committee of the whole House to-morrow.

#### TUESDAY, November 1.

The House proceeded to consider the report of the committee appointed on the seventeenth ulti-

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mo to prepare and report such standing rules and orders of proceeding as are proper to be observed in this House, to which the Committee of the whole House, yesterday, reported their agreement; and the resolution contained therein, being twice read at the Clerk's table, was, on the question put thereupon, agreed to by the House, as follows:

*Resolved*, That the Rules and Orders established and observed by the late House of Representatives, be adopted by this House.

Mr. JACKSON moved the following resolution :

*Resolved*, That provision be made by law for the application of one-twentieth part of the net proceeds of the land lying within the State of Ohio, sold or to be sold by Congress, from and after the thirtieth of June, one thousand eight hundred and two, to the laying out and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio river, and to the said State of Ohio, in conformity with the act of Congress, entitled "An act to enable the people of the western division of the Territory Northwest of the river Ohio to form a constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes;" passed upon the thirtieth of April, one thousand eight hundred and two, as well as the act passed the third of March, one thousand eight hundred and three, in addition to, and in modification of, the propositions contained in the act aforesaid, and the ordinance of the Convention of the State of Ohio, bearing date the twenty-ninth day of November, one thousand eight hundred and two.

*Ordered*, That the said motion be referred to a Committee of the whole House to-morrow.

The motion for excluding strangers from the floor of the House was resumed.

Mr. CLAIBORNE spoke against the motion. He did not think that a certain part of the citizens (females) should be excluded from their right of hearing the debates. They had a curiosity to be gratified, and they were interested in the proceedings of the House. It would be inferred that they had transgressed, by being debarred at this time. He had ever observed that they have conducted themselves in a manner that gave no interruption to the business pending in the House. He should therefore vote against the resolution.

Mr. EARLY replied, that he had but one single observation to add, which was, that it was not the particular class of citizens referred to who caused the interruption, but the members themselves, when they were present. They would remain peaceable, if gentlemen who attended them did not occasion the complaint.

Mr. CLAIBORNE wished members so offending to be reprimanded, by name, from the Chair.

The motion was rejected.

Mr. VARNUM moved the order of the day on making provision for carrying into effect the seventh article of the British Treaty, and the House went into a Committee—Mr. J. C. SMITH in the Chair.

The bill was read and agreed to, without a division.

The SPEAKER having resumed the Chair, was proceeding to read the bill—when

Mr. R. GRISWOLD observed, that the seventh section provides that the Commissioners shall examine claims, and award thereon. The article in the present bill says, that interest of six per cent. shall be allowed upon the claim. He thought this improper; he wished the interest to take place upon the award being made, and he should therefore move to strike out the word "claim," and insert "award."

Mr. EARLY said, he did not rise to oppose the amendment, but to observe that he thought it improper to proceed upon the business in the absence of the gentleman who moved it, (Mr. J. RANDOLPH,) he therefore moved the postponement until to-morrow; upon which a division took place—yeas 60, nays 32.

On motion of Mr. NICHOLSON, it was

*Resolved*, that a committee be appointed to inquire and report, by bill or otherwise, whether any additional provisions are necessary to be made to the act, entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State."

*Ordered*, That Messrs. NICHOLSON, GRIFFIN, and HOLLAND, be appointed a committee, pursuant to the said resolution.

Mr. DAWSON said he had, last session, submitted two resolutions respecting post roads, which had not been acted upon; he therefore renewed them, in substance, as follows:

1. *Resolved*, That provision ought to be made by law for the establishment of post roads throughout the United States.

2. *Resolved*, That whatever money received from the Post Office shall remain, after defraying the expenses of the same, be appropriated to the fixing and improvement of the post roads.

Referred to a Committee of the Whole, and made the order for Monday.

Mr. JOHN C. SMITH, from the Committee of Claims, to whom was referred, on the eighteenth ultimo, the petition of Amey Dardin, presented on the third of February last, made a report thereupon; which was read, and ordered to be referred to a Committee of the whole House on Friday next.

WEDNESDAY, November 2.

A remonstrance and memorial of Zachariah Cox, a citizen of the United States, was presented to the House and read, stating certain injuries which he sustained in his person and property, some time in the year 1798, in the Mississippi Territory, and at Nashville, in the State of Tennessee, by a body of armed men, belonging to the army, commanded by officers in the service of the United States, and by the proceedings of the Judge of a Federal Court; and praying that such redress may be afforded in the premises, as to the wisdom and justice of Congress shall seem meet.

*Ordered*, That the said remonstrance and memorial be referred to Messrs. EARLY, THOMAS M. RANDOLPH, PURVIANCE, SKINNER, and LEWIS;

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that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

Mr. NICHOLSON, from the committee appointed yesterday, presented a bill supplementary to the act, entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State;" which was read twice, and committed to a Committee of the whole House to-morrow.

The House took up the report of the Committee of the Whole on the bill making an appropriation for carrying into effect the 7th article of the British Treaty.

An amendment, not affecting the principle of the bill, being made at the instance of Mr. R. GRISWOLD, and Mr. J. RANDOLPH, the bill was ordered to a third reading to-morrow.

Mr. MITCHELL called the attention of the House to a subject of considerable importance, growing out of our possessions on the Mississippi. He stated that the mail to the Natchez was at present transported by a route circuitous and difficult of performance. The Cherokee country, which constituted a part of it, was so destitute of water and articles of subsistence, as to render it necessary for the conveyer of the mail to carry whatever himself or his horse required. Even the water used was carried in goat skins. A great portion of the country was likewise infested with robbers. The measure he proposed was to inquire by what means the carriage of the mail to the Natchez and New Orleans could be facilitated, so as to abridge the time now consumed, and lessen the dangers and difficulties attending the transportation. Mr. M. believed a route might be pursued whereby four hundred miles could be saved in the present distance to the Natchez. Mr. M. desired such an inquiry to be made into the means of accomplishing this important object, as should, while it tended to promote the great political and commercial interests of the country, convince the Indian tribes that our object was not to invade their rights. He further observed that the usual voyage to New Orleans was about thirty days. If the route by land should be improved, that place might be probably reached in ten days. He therefore offered the following resolution:

*Resolved*, That the Committee on Post Offices and Post Roads be directed to inquire by what means the mail may be conveyed with greater facility and dispatch, than it is at present, between the City of Washington, and the Natchez and New Orleans.

Agreed to without a division.

THURSDAY, November 3.

*Ordered*, That the memorial of sundry inhabitants of the two western counties of the Indiana Territory of the United States, which was read and ordered to lie on the table, on the twenty-sixth ultimo, be referred to Mr. LUCAS, Mr. MORROW, Mr. CHITTENDEN, Mr. LYON, and Mr. CLAGGETT; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

An engrossed bill making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty, was read the third time, and passed.

Mr. DAWSON laid on the table a motion for continuing for — years the act of April, 1799, for augmenting the salaries of certain officers.

Mr. JACKSON observed that when he submitted a resolution for the application of one-twentieth part of the net proceeds of land sold in Ohio, he did not expect there would exist that diversity of opinion, which he had since learned did exist, in relation to the construction of the ordinance for the government of the Northwestern Territory. In order to give time for such a full investigation of the subject, as might, in its issue, be satisfactory to the State of Ohio, he moved a postponement of the consideration of the resolution, until the third Monday in November.—Agreed to.

FRIDAY, November 4.

A Message was received from the President of the United States, transmitting information of an act of hostility committed on a merchant vessel of the United States by an armed ship of the Emperor of Morocco.

The said Message, and letter transmitted therewith, were read, and referred to Mr. EUSTIS, Mr. JOSEPH CLAY, Mr. SANDS, Mr. M'CREEERY, and Mr. DANA, to examine and report upon the same.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the Convention of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic; and making provision for the payment of the same," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said message: Whereupon,

*Ordered*, That the amendment of the Senate, together with the bill, be referred to the Committee of Ways and Means.

*Ordered*, That the Committee of the Whole House to whom was referred, on the first instant, a report of the Committee of Claims on the petition of Amey Dardin, be discharged from the consideration thereof; and that the said petition and report be recommitted to the Committee of Claims.

Mr. LYON moved the following resolution:

*Resolved*, That provision ought to be made, by law, for suspending the collection of duties in the ports of the United States on all articles the growth, produce, or manufacture, of the territory ceded to the United States by the Treaty of Paris, of the thirtieth of April last, as well as for the reimbursement of such duties as shall have been paid on such articles since the ratification of the said treaty.

*Ordered*, That the said motion be referred to the Committee of Ways and Means.

Mr. EARLY, in order to attract the attention of

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the House to a subject of some importance, that it might obtain an early decision, moved the following resolution.

*Resolved*, That the petition of John F. Randolph and Randolph McGillis, in behalf of themselves and others, presented to this House at the last session, together with the report of the Secretary of War, accompanied with sundry documents respecting claims against the United States, for services of the militia of Georgia, made the 6th February, 1803, and also the report of the select committee thereon, made on the 10th of the same month, be referred to the Committee of Claims." The motion was agreed to.

Mr. RANDOLPH invited the attention of the House to a subject of some importance to the revenue. Under an existing law a drawback of duties on goods exported to New Orleans was allowed. Should this act remain in force, goods sufficient to supply the Mississippi Territory and the other western country for several years might be stored in the warehouses of New Orleans, which, on possession being taken by the United States, may be carried into the United States, thereby evading the payment of duties. He therefore moved a resolution for the repeal of that act.

Resolution agreed to, and referred to the Committee of Ways and Means.

Mr. NEWTON said he held in his hand a resolution, which it was not his wish should be immediately acted upon, but at a future day. It would be recollected that during the last session the propriety of repealing the bankrupt law had come under the consideration of the House; but that, owing to the lateness of the day, its consideration had been postponed. As he was desirous that the subject should be investigated this session, he made the following motion:

*Resolved*, That the act entitled an act to establish an uniform system of bankruptcy throughout the United States ought to be repealed.

Referred to a Committee of the Whole, and made the order for the 21st inst.

Mr. EARLY said he held in his hand a manuscript copy of the original report of the Commissioners who had settled the accounts between the United States and the several States; as a document, throwing much light on this subject, he moved that it might be printed.—Agreed to.

On motion of Mr. DAWSON, a resolution laid by him on the table for continuing for — years an act augmenting certain salaries, was referred to a Committee of the Whole, and made the order for Monday next.

Mr. ELLIOT offered a resolution for the appointment of a committee to inquire whether any, and if any, what, provision was necessary to be made to produce a more general circulation of copper coin throughout the United States.—Agreed to, and a committee of five appointed.

MONDAY, November 7.

Another member, to wit: OLIVER PHELPS, from New York, appeared, produced his credentials, was qualified, and took his seat in the House.

A petition of sundry inhabitants of the State of

New York, was presented to the House and read, stating certain grievances and losses to which a number of the citizens of the said State have been and are now subjected, in consequence of the unjust and oppressive practices committed by collectors appointed under an act, entitled "An act to lay and collect a direct tax within the United States;" and submitting to the consideration of Congress sundry propositions for redress therein, which they pray may be adopted; or that such other relief may be afforded in the premises as may be best calculated to remedy the evils of which the petitioners complain.

*Ordered*, That the said petition be referred to the Committee of Ways and Means.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanied with a report and estimates of appropriation necessary for the service of the year one thousand eight hundred and four; also, a statement of receipts and expenditures at the Treasury of the United States for one year preceding the first day of October, one thousand eight hundred and three; which were read, and ordered to be referred to the Committee of Ways and Means.

Mr. JOHN RANDOLPH, Jr., from the Committee of Ways and Means, to whom was referred, on the fourth instant, the amendment proposed by the Senate to the bill; entitled "An act authorizing the creation of a stock, to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the Convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic, and making provision for the payment of the same," reported that the committee had had the said amendment under consideration, and directed him to report to the House their agreement to the same.

The House then proceeded to consider the said amendment of the Senate at the Clerk's table. And on the question that the House do concur with the Committee of Ways and Means in their agreement to the same, it was resolved in the affirmative.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, to whom were referred, on the twenty-eighth ultimo, a letter and report from the Secretary of the Treasury, with sundry accompanying documents, relative to a survey of the harbor in the island of Nantucket, in the State of Massachusetts, and of the bar and shoals near the same, made a report thereon; which was read: Whereupon,

*Ordered*, That the said report and accompanying documents, together with a petition of the inhabitants of the island and town of Nantucket, presented the eleventh of February last, be referred to a Committee of the Whole on Monday next.

The House resolved itself into a Committee of the Whole on a motion of the fourth instant relative to a farther continuance of an act passed the second of March, one thousand seven hundred and ninety-nine, entitled "An act to augment the salaries of the officers therein mentioned; and, after

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some time spent therein, the Committee reported their agreement to the same, as amended.

The House then proceeded to consider the said motion at the Clerk's table; and the resolution contained therein, as amended by the Committee of the Whole, being twice read in the words following, to wit:

*Resolved*, That an act passed on the second day of March, one thousand seven hundred and ninety-nine, entitled "An act to augment the salaries of the officers therein mentioned," which was revived and continued in force by an act passed on the fourteenth of April, one thousand eight hundred and two, ought to be farther continued for the term of two years from the first day of January next:

The question was taken that the House do concur with the Committee of the Whole in their agreement to the said resolution, and passed in the negative.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That provision ought to be made, by law, for fixing the salaries of certain officers in the several Executive Departments of Government:

*Ordered*, That the said motion be referred to the Committee of Ways and Means.

TUESDAY, November 8.

*Resolved*, That the Committee of Commerce and Manufactures be directed to inquire and report by bill, or otherwise, whether a drawback of duties ought not to be allowed on sugar refined in the United States, and exported to foreign ports or places.

WEDNESDAY, November 9.

A petition of the Mayor, Aldermen, and Assistants of the city of Natchez, in the Mississippi Territory of the United States, in Common Council assembled, was presented to the House and read, praying that Congress will confirm to the petitioners the title of such lots and land, for the use of the said city, as may be found vacant within the present limits thereof.

*Ordered*, That the said petition be referred to Mr. LATTIMORE, Mr. ALSTON, and Mr. STEDMAN, to examine and report thereon.

The SPEAKER laid before the House sundry depositions and other papers transmitted from the counties of Botetourt and Amherst, in the State of Virginia, relative to the contested elections of Thomas Lewis and Thomas M. Randolph, two of the members returned to serve in this House for the said State; which were read, and ordered to be referred to the Committee of Elections.

THURSDAY, November 10.

Another member, to wit, JAMES GILLESPIE, from North Carolina, appeared, produced, his credentials, was qualified, and took his seat in the House.

Mr. J. RANDOLPH, jun., from the committee appointed, presented a bill to repeal the act, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend

the act, entitled 'An act to regulate the collection of duties on imports and tonnage;' which was read twice, and committed to a Committee of the Whole to-morrow.

*Resolved*, That the Committee of Commerce and Manufactures be directed to inquire into the expediency of exempting pilots from paying hospital money for their apprentices; and that they have power to report by bill, or otherwise.

FRIDAY, November 11.

The House met, but transacted little or no business, and adjourned till Monday.

MONDAY, November 14.

A petition of Andrew Moore, of the State of Virginia, was presented to the House and read, complaining of an undue election and return of Thomas Lewis, to serve as a member in this House, for the district composed of the counties of Greenbrier, Kenawha, Monroe, Botetourt, and Rockbridge, in the said State.

*Ordered*, That the said petition be referred to the Committee of Elections.

Mr. SAMUEL L. MITCHELL, from the committee appointed, on the twenty-ninth ultimo, "to take into consideration the propriety of reprinting the Laws of the United States, the Journals of the House of Representatives, and other Public Documents," made a report thereon; which was read and referred to a Committee of the Whole House on Friday next.

Mr. CHITTENDEN, one of the members from the State of Vermont, presented to the House certain resolutions of the Legislature of the said State, passed the twenty-fourth of October last, relative to an amendment to the Constitution of the United States in the case of future elections of President and Vice President; which were read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill to repeal the act, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage;'" and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

The House resolved itself into a Committee of the whole House on the report of the Committee of Claims, of the tenth instant, to whom was referred the petition of John Hunter; and, after some time spent therein, the Committee reported their agreement to the same, without amendment.

The House then proceeded to consider the said report at the Clerk's table; and the same being twice read, in the words following, to wit:

"The petition states that Colonel John Fitzgerald, a naval officer in the service of the United States, hired of the petitioner a dwelling-house in the town of Alexandria, and that the property of Fitzgerald had been seized by the United States, 'to satisfy his delinquency.' The petitioner prays that the rent of his dwelling-house,



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which is in arrears for seven months, may be paid by the Government.

"If the house was hired for the use of the United States, and by one duly authorized for that purpose, the claim may, at any time, be adjusted at the proper department. This, however, is not pretended; nor do your committee know of any principle, either of justice or equity, which would require the Legislature to afford relief to the petitioner. They are, therefore, of opinion, that he have leave to withdraw his petition."

The question was taken, that the House do concur with the Committee of the whole House in their agreement to the said report, and resolved in the affirmative.

TUESDAY, November 15.

Another member to wit: GEORGE TIBBITS, from New York, appeared, produced his credentials, was qualified, and took his seat in the House.

A Message was received from the President of the United States, communicating a digest of the information received relative to Louisiana, which was read, and, together with the digest of information transmitted therewith, ordered to be referred to the committee appointed, the twenty-seventh of October last, on so much of the President's Message, of the twenty-first of the same month, as relates "to permanent arrangements for the government of Louisiana."

An engrossed bill to repeal the act, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,'" was read the third time, and passed.

*Ordered*, That the committee to whom was referred, on the fourth instant, a Message from the President of the United States, relative to an act of hostility committed on a merchant vessel of the United States by an armed ship or vessel of the Emperor of Morocco, and the copy of a letter from Captain Bainbridge, of the Philadelphia frigate, accompanying the same, have leave to report thereon by bill or bills, or otherwise.

Mr. EUSTIS, from the committee last mentioned, presented a bill for the further protection of the seamen and commerce of the United States; which was read twice and committed to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, of the seventh instant, to whom were referred a letter and report from the Secretary of the Treasury, with sundry accompanying documents, relative to a survey of the harbor in the island of Nantucket, in the State of Massachusetts, and of the bar and shoals near the same; to which Committee of the whole House was also referred a petition of the inhabitants of the island and town of Nantucket, presented the eleventh of February last; and, after some time spent therein, the Committee rose and reported two resolutions thereupon, which were severally twice read, and agreed to by the House, as follows:

1. *Resolved*, That the inhabitants of the island and town of Nantucket, in the State of Massachusetts, who presented a petition to this House on the eleventh of February last, have leave to withdraw the said petition, together with the papers accompanying the same.

2. *Resolved*, That the report of a select committee, made at the last session of Congress, on the subject of the fisheries of the United States, be referred to a select committee, with instruction to inquire and report whether any, and, if any, what, measures are necessary for the encouragement of the whale and cod fisheries.

*Ordered*, That Mr. HUGER, Mr. BISHOP, Mr. GRAY, Mr. GODDARD, and Mr. RHEA of Tennessee, be appointed a committee, pursuant to the second resolution.

*Resolved*, That the President of the United States be requested to cause to be laid before this House copies of any documents which may be in the possession of the Executive, relative to the arrest and confinement of Zachariah Cox, by the officers in the service of the United States, at Natchez, in the year one thousand seven hundred and ninety-eight.

*Ordered*, That Messrs. EARLY and THOMAS M. RANDOLPH be appointed a committee to present the foregoing resolution to the President of the United States.

WEDNESDAY, November 16.

Mr. FINDLEY, from the Committee of Elections, to whom it was referred to examine the certificates and other credentials of the members returned to serve in this House, made a farther report, in part, thereupon; which was read, and ordered to lie on the table.

The House resolved itself into a Committee of the Whole on the bill for the further protection of the seamen and commerce of the United States.

The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

THURSDAY, November 17.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred, on the thirty-first ultimo, a motion relative to a provision for relief of the owners of the Danish brigantine Henrick, together with a report of the Secretary of State, communicated by a message to this House from the President of the United States, on the twenty-third of February last, and the accompanying documents, made a report thereon; which was read, and referred to a Committee of the whole House on Tuesday next.

Mr. EPPES moved the following resolution:

*Resolved*, That it is expedient to discontinue the offices of Commissioners of Loans in the different States, and to transfer the duties of those offices to the Secretary of the Treasury, with an allowance of — dollars for additional clerks.

Referred to the Committee of Ways and Means.

#### SALARIES OF OFFICERS.

Mr. RANDOLPH, from the Committee of Ways and Means, reported a bill fixing the salaries of certain officers therein mentioned.

The bill leaves the salaries blank.

Mr. LEIB moved the recommitment of the bill to the Committee of Ways and Means, under the impression that it had been the intention of the House, in making the original reference to that committee, that they, understanding the resources of the country, should fix the quantum of the salaries, and not report a bill in blank.

Mr. RANDOLPH, the Chairman of the Committee of Ways and Means, explained at some length the reasons which had operated with the committee in reporting the bill in blank. He observed that he had himself been in favor of making a report, predicated on the previous decision of the committee, whether the existing salaries should be increased, diminished, or remain unaltered. In this opinion he had been overruled, and the committee, not being able to agree among themselves on these points, had directed a bill in blank to be drawn up.

Mr. NICHOLSON vindicated the report of the committee as perfectly regular, and conformable to the invariable practice in analogous cases. In all cases where a discretion as to the quantum of money applied to specific objects existed, committees had reported a bill in blank, leaving the decision on the proper sums to the determination of the House.

Mr. LEIB's motion to recommit was lost without a division, and the bill referred to a Committee of the Whole to-morrow.

#### PROTECTION TO SEAMEN AND COMMERCE.

An engrossed bill for the further protection of the seamen and commerce of the United States was read the third time.

Mr. CROWNINSHIELD, of Massachusetts, rose and said, he wished to recommit the bill to a Committee of the whole House, in order to introduce an amendment immediately at the end of the first section. He stated that as the clause now stood a power was given to our cruisers to capture the merchant vessels of friendly and allied Powers, having on board goods and effects the property of the Emperor of Morocco or of his subjects.

I will suppose, said Mr. C., that our public ships should meet with a neutral vessel which is suspected to be loaded with enemies' goods, and a capture follows; and it should afterwards appear upon a proper examination in port, that a mistake had been committed, and that the cargo as well as the ship was neutral; I would ask whether the United States would not be held responsible to pay heavy damages; and if an unjust condemnation were to take place, should we not be answerable to the owner of the neutral ship or to his Government?

I have known the flag of our country torn away from the mast, and the fairest documents trampled upon and thrown into the sea by the lawless freebooters of the ocean. I have also, known, and the members of this House cannot be ignorant of the fact, that more than one thousand American merchant vessels were captured during the late war in Europe, and wantonly and unjustly condemned as enemies' property, when every timber belong-

ing to the vessels, and every dollar of the cargoes, were *bona fide* American. And having seen this I do not wish an authority should be given to our own cruisers, whereby the merchant vessels of an unoffending nation may be captured, and their cargoes afterwards adjudicated. Mr. C. here offered the following amendment to the bill, to be introduced at the termination of the first section:

"Provided nothing herein contained shall be construed to authorize the capture or detention of any vessel bearing the flag of any European Power whatever, although such vessel may be loaded in whole or in part with goods and effects belonging to the Emperor of Morocco or his subjects—contraband goods destined to the enemies' ports excepted."

After reading the amendment in his place, Mr. C. said that he offered it to the consideration of that honorable body, wishing most sincerely that it should be incorporated into the bill, or that some other provision might be introduced guarding against the practice he had alluded to by the ships of the belligerent nations.

Mr. DANA observed that the alleged objection did not lie against the bill, as the nature of the instructions to commanders of American vessels was confided to the President, who would, no doubt, adopt such regulations as should be proper.

Mr. EUSTIS opposed the recommitment, on the ground that the provisions of the bill were an exact transcript of those contained in an act passed two years since in relation to Tripoli, and on the ground that the insertion of the proposed amendment might, while it failed to affect the principle of the law of nations, produce considerable inconveniences so far as it related to the Barbary Powers.

After some debate, in which Mr. NICHOLSON supported the amendment, upon the principle that free ships ought to make free goods, it was put and lost, 39 members only being in favor of it.

The question recurring on the passage of the bill,

Mr. DANA observed that it had been hitherto usual to require the yeas and nays to be taken to mark the disagreement of the members of the House; he moved that they should be taken on this question to show their cordial agreement.

The question was then taken by yeas and nays on the passage of the bill, and carried unanimously in the affirmative—yeas 117, as follows:

YEAS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Silas Betton, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, James Gillespie, Calvin Goddard, Peterson Goodwin, Edwin Gray, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Seth Hastings, Daniel Heister, Joseph

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Heister, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jr., Thomas Lowndes, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, Samuel D. Purviance, John Randolph, jr., John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Cotton Smith, John Smith of New York, John Smith of Virginia, Richard Standford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, George Tibbitts, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Peleg Wadsworth, John Whitehill, Lemuel Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

#### POSTAGE OF NEWSPAPERS.

MR. G. W. CAMPBELL.—There is a subject to which I wish to draw the attention of the House. It is, sir, the postage charged on the transportation of newspapers in the mail. This subject I conceive of sufficient importance to meet the attention of this House, as it affects the means of acquiring political information in the different parts of the Union.

I presume it will not be denied, that the most effectual way of rendering the people at large useful citizens, and of securing to them their liberties and independence, would be to increase the sources of information, make them well acquainted with their political rights, and also with the proceedings of their Government. So long as they are informed on those subjects, so long they will be disposed to acquiesce in, and support such measures as may be calculated to promote the general good, but will be prepared to resist any attempts that may be made to infringe their rights by those in power. It is believed that newspapers are the most general and effectual means of disseminating political information among the citizens at large; and it ought therefore to be the object of Government to facilitate their circulation as much as possible. I conceive, sir, the most direct way to attain this object would be to cause them to be transported in the mail free of postage.

The moneys arising from the postage on newspapers cannot certainly be such an object to Government, as would justify the principle of laying a tax on information, or pursuing any measures that would have a tendency to diminish, in the least degree, the means by which it may be acquired. It seems to be admitted by all those who have considered the subject, that the Post Office establishment was never intended as a paramount source of revenue; and therefore we find that the moneys arising therefrom have not generally been taken into the calculation, in the estimates of our finances. The whole amount of the postage on newspapers I believe to be very inconsiderable,

as an item of revenue; and a great proportion of it, as I am informed, is given to the deputy postmasters for keeping the accounts of such postage, and for collecting the same: and if information is to be relied upon, many of those deputy postmasters, who are allowed about fifty per cent. on the amount of postage thus collected, are of opinion that the labor of keeping those accounts and of collection, exceeds this compensation; and they would be well satisfied that no such postage existed. If this statement be correct, it will go a great way to prove the measure impolitic.

But perhaps it may be said that the postage to be collected on newspapers, has a tendency to insure their arrival at the places of destination, and the delivery of them to those to whom they are directed. This, upon investigation will, I believe, be found not to be the case. It is made the duty of the postmasters, by law, to forward and deliver newspapers, as well as letters,—they act upon oath, and if a sense of propriety in their conduct, and the obligation of an oath, would not induce them to perform their duty in this respect, it cannot be expected that the paltry emolument accruing to them from their part of one cent, or one and a half cents on each newspaper, would have that effect; and even this sum must be still less relied upon as an inducement, when it is considered, as already stated, that the labor required in keeping accounts for this purpose and in collection, is not in reality compensated by the sum received. In order, therefore, to bring this subject fairly before the House, I move that the House come to the following resolution:

*Resolved*, That so much of the act to establish post-offices and post roads in the United States as charges a postage on the transmission of newspapers ought to be repealed.

Ordered to lie on the table.

FRIDAY, November 18.

Two other members, to wit: JOSEPH BRYAN, and SAMUEL HAMMOND, from Georgia, appeared, presented their credentials, were qualified, and took their seats in the House.

#### SALARIES OF CERTAIN OFFICERS.

The House resolved itself into a Committee of the Whole on the bill fixing the salaries of certain officers therein mentioned. The bill was read, as follows:

*Be it enacted, by the Senate and House of Representatives of the United States of America, in Congress assembled*, That, from and after the end of the present year, the following annual compensations, and no other, be and they are hereby granted to the officers herein enumerated respectively, that is to say: To the Secretary of State, \$ —; to the Secretary of the Treasury, \$ —; to the Secretary of War, \$ —; to the Secretary of the Navy, \$ —; to the Attorney General, \$ —; to the Comptroller of the Treasury, \$ —; to the Treasurer, \$ —; to the Commissioner of the Revenue, \$ —; to the Auditor of the Treasury, \$ —; to the Register of the Treasury, \$ —; to the Accountant of the War Department, \$ —; to the Accountant of the Navy Department,

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\$ —; to the Postmaster General, \$ —; and the Assistant Postmaster General, \$ —: which respective sums shall be payable quarter-yearly at the Treasury of the United States.

Mr. J. RANDOLPH moved to fill the blank in relation to the salary of the Secretary of State with "five thousand dollars."

Mr. LEIB moved to fill it with "three thousand five hundred dollars." According to the rules of the House, the question was first put on the highest sum.

Mr. SANDFORD said he was not able to ascertain what the existing salaries given to the officers named in the bill were, and was therefore, unprepared to vote on the question. He hoped that some gentleman would state precisely what these salaries were.

Mr. J. RANDOLPH rose to give the gentleman from Kentucky the information he desired. The salaries under the existing law, were as follows: Secretary of State, \$5,000; the Secretary of the Treasury, \$5,000; the Secretary of War, \$4,500; the Secretary of the Navy, \$4,500; the Comptroller, \$3,500; the Treasurer, \$3,000; the Auditor, \$3,000; the Register, \$2,400; the Attorney General, \$3,000; the Accountants of the War and Navy Departments, each \$2,000.

These are the salaries, said Mr. R., to which these officers are now entitled, and which they have received from the time of their coming into office; and these are the salaries received by their predecessors when they went out of office. The law under which these salaries are received expires with the present year, and if the law now submitted be not passed, the salaries will be as follows: the Secretary of State, \$3,500; the Secretary of the Treasury, \$3,500; the Secretary of War, \$3,000; the Secretary of the Navy, \$3,000; the Comptroller, \$2,650; the Auditor, \$2,400; the Treasurer, \$2,400; the Register, \$2,000; the Attorney General, \$2,400; the Accountants of the War and Navy Departments, \$1,600 each.

Mr. LEIB—The gentleman from Virginia, (Mr. RANDOLPH,) has stated that the existing salary of the Secretary of State is the same with that received by his predecessor. If the gentleman means by his predecessor, the gentleman who immediately preceded the present Secretary, he is correct; but if he means all his predecessors, he is incorrect. Under the Government as first organized, the Secretary of State received only \$3,500. That office was then filled by a man of the first talents, and the country was also in a critical situation; yet the salary of \$3,500 was deemed sufficient. When it was increased, in the year 1799, it was contended that articles of consumption were at war prices, and that the seat of Government being about to be removed to Washington, it was necessary to make an additional provision. Suppose these were facts then, are they so now? Are the articles of living dearer now, than they were before the passage of the act of 1799? they are not dearer in Washington than in Philadelphia; while house rent is dearer there than here. These are reasons why the salaries as they stood at that period should not now be increased. When the

act of 1799 was passed, it was urged, by certain gentlemen now in favor of an increase of salaries, that economy in a Republican Government was highly necessary, and that there was a large national debt, the discharge of which required the most frugal disbursement of the public moneys. Now, when a change has taken place in the administration of the Government, and gentlemen possess the power of reducing these salaries, they are in favor of their continuance. Mr. L. hoped they would regard consistency of character, and recollect that if these salaries were wrong then, they could not be right now. He therefore trusted, when they fully considered the circumstances, they would vote in favor of filling the blank with the small sum proposed.

Mr. ALSTON hoped the motion of the gentleman from Virginia would prevail. If gentlemen really wish to make a saving, they will not turn their attention to the trifling difference between the present salaries and those that existed four or five years back; the difference is so small as not to be noticed in the scale of national expenditure. We know, also, that the salaries now received have called forth the first talents. If they shall be reduced, we do not know that those given will call forth the best talents. It therefore appears to me, said Mr. A., extremely probable that the small saving contemplated by some gentlemen will be attended with great eventual loss. With regard to the remarks of the gentleman from Pennsylvania (Mr. LEIB) on the comparative expenses of this place and Philadelphia, I can only judge from my own expenses, which were less in Philadelphia than here.

Mr. LEIB said it was true that boarding was dearer in this city than in Philadelphia; but that arose from the session of Congress being but for part of a year, which obliged those who keep boarding houses to charge enough during a part of the year for them to subsist on during the whole. This was the case with those whose residence was permanent.

Mr. FINDLEY believed that gentlemen were so far agreed with regard to the salaries of permanent offices, as to unite in opinion that there should be attached to them established salaries. As far as he knew the intention of those who were friendly to the motion made by the gentleman from Virginia, the object was to fill the blanks with the same salaries which had been allowed for five years past. This object, therefore, had received the sanction of five years' experience; an experience which, in ordinary concerns, ought not, in his opinion, to be disregarded. In the course of his experience, under either Federal or State Governments, he had not known salaries lowered. Besides, if from time to time, changes be made in the salaries of the officers of Government, it may be said that we are actuated by a spirit of favoritism to particular men.

His colleague (Mr. LIEB) had taken a review of the state of the salaries, and of the comparative expenses of living. To the opinion expressed by him, the gentleman from North Carolina (Mr. ALSTON) had replied. He (Mr. F.) agreed

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with that gentleman. As far as his experience extended, he found no abatement, but an augmentation of the expenses of living; all the changes that had taken place were in favor of higher living and higher salaries. The necessities of life might be cheaper as far as they depended upon a foreign demand; but we cannot calculate on this as a permanent state of things. The late peace of Europe had been of long duration and war had returned. Nor can we derive any argument for reducing the salaries, from the existing state of the circulating medium. A few years back there was but one bank in Philadelphia, which had but a small capital, now there are three. A similar increase of those institutions has taken place in different parts of the United States. This is proof of a great increase of capital and depreciation of money.

But gentlemen, desirous of reducing salaries, should look round to other officers than those named in this bill. For his own part, Mr. F. said, he did not know that he had ever voted for lowering the salary of any officer; and when he desired gentlemen to turn their attention to other officers, it was not that he was in favor of reducing their salaries. But he asked gentlemen to look to the collectors of the ports, some of whom received \$5,000 a year—a sum equal to the highest allowed, under this bill, to officers where the responsibility incurred and talents required were infinitely greater. With regard to the policy of the measure, he would appeal to gentlemen whether it was politic in the Government of the United States to narrow the field of choice for the selection of these important officers? For his part, he wished the Government might always hold out a temptation to the greatest talents. When he considered the salaries given by the States to their officers, the present salaries did not appear more than a competence. With respect to the motion to fill the blank with \$3,500, Mr. F. said he called it lowering the present salaries; and the gentlemen now in office came in under the expectation that the existing salaries would be continued. They had not, it is true, the security of law for their continuance, but they had a well-founded expectation. In Pennsylvania, the salaries of the judges were raised for a time, and then made permanent.

Mr. F. said that he, in 1799, voted against raising these salaries; but now, after the increase had so long existed, and had become fortified by experience, he should be against reducing them, under the impression that the salaries of such officers should be permanent. He therefore hoped that the motion to fill the blank with \$5,000 would prevail.

Mr. J. RANDOLPH said he did not understand the reasoning adduced by the gentleman from Pennsylvania, (Mr. LEIB), to show that the blank ought to be filled with a smaller sum than \$5,000. There had, indeed, been adduced an argument that might apply with some force to particular gentlemen in that House, but which was inapplicable to a great majority of the members: he alluded to the argument that those who in 1799 voted against an increase of salaries, should at this time vote in favor

of a diminution of them. At that period, he had not the honor of a seat in the House. But, if this argument applied with any force to those who voted against an increase, to restrain them from voting for this bill, it ought surely to be more conclusive on the minds of those who on that occasion voted for it, to induce them now not to vote against it. And for this plain reason, the Committee would perceive that the same cause which induced members in 1799 to vote against the increase of salaries, might induce them to vote for their continuance after they were raised. It did not, therefore, follow that there was any inconsistency between opposing the increase in 1799, and voting for its continuance in 1803. There was a wide difference between refusing to augment a salary and refusing to diminish it after it was augmented. For, though there may have been in 1799 strong reasons against an increase, there may be stronger reasons at present entertained by the same men against a diminution. He believed, had he been a member then, he should have voted against the increase. But there would be an obvious and glaring inconsistency in those, who, having voted in 1799 for an increase, should now vote for a diminution of these salaries. He said so, not from an idea that there were in the House any such gentlemen. He was, on the contrary, persuaded those gentlemen had too great a regard to consistency and to character to commit such a glaring inconsistency of conduct.

As this reduction of the salaries of a few of the Executive officers was supported on the ground of economy, Mr. R. said he would take a view of the expenses of the Government, in order to determine whether this object, so much the favorite of some gentlemen, was worthy of the attention bestowed upon it. Of the expenditures of the Government, those usually classed under the name of civil list amounted to \$564,000; those of a miscellaneous nature, which in some of the items partook of the character of those which constituted the civil list, \$183,000; for foreign intercourse, \$159,000; for the Military department, \$863,000; for the Naval Establishment, \$650,000. These, constituting the whole estimate of the expenses for the ensuing year, fell short of two millions and a half; of which, only about half a million goes to the support of the civil list. What are we now about to do? To legislate at an expense greater than the saving contemplated—to bring a mere pepper-corn into the Treasury—to cut off, perhaps, some of the most responsible officers of the Government. In my opinion, said Mr. R., if a reform of expenses is our object, it belongs to us to begin (where we ought to begin, on some other solemn occasions) at home. Let us look at our own expenses and receipts—at the contingent fund of this House, and of the other branch of the Legislature—at the contingent fund of the departments. We shall find the expenses of the Department of State, exclusive of the expense of printing and distributing the laws, \$12,000, while the salary of the Secretary is \$5,000; of the Secretary of the Treasury, \$9,000, while the salary of the Secretary is \$5,000; of the Comptroller's office, \$9,000, while

the salary is \$3,500; of the Auditor, \$9,000, while the salary is \$3,000; of the Register's office, \$14,000, while the salary is \$2,400. We shall also find in the same Department other miscellaneous expenses to the large amount of \$11,000. We shall find in the War Department the expenses \$12,000, of which \$4,500 constitutes the salary of the Secretary; and in the Accountant's office, \$10,000 expenses, while the salary is \$2,000, besides the expenses of the Paymaster and Purveyor of Public Supplies. We shall find in the Navy Department the expenses \$6,000, and the salary of the Secretary \$4,500; and in the Accountant's office the expenses \$8,000, and the salary \$2,000. In the Post Office Department we shall find the same ratio between the expenses and the salary of the head of the Department. Then come the expenses of the officers of the Commissioners of Loans in the several States, properly the expenses of the Treasury Department, and which are immense. Then follows that glorious institution—that splendid attribute of sovereignty—the Mint, for which the Government annually pays \$11,600 in salaries to its officers, exclusive of other expenses, amounting to \$9,400, and making altogether the enormous sum of \$20,000! Then follows the Judiciary, respecting the expenses of which I have no further observations to make, than that I believe the salaries of the men who fill those high and responsible offices are very inferior to what they ought to be. Then follows that description of expense, which I have always understood to be the peculiar fund from which a nation may economize—the Marine and War Departments; one of which amounts to \$860,000, and the other to \$650,000. They are the departments in which a nation can alone exercise true economy. When I make this observation, I do not mean to say that reform ought not to take place in the civil expenditures; but even then we ought to strike at the contingent funds—the stationery and fuel of the Departments, and of this and the other House.

It has been stated truly by the venerable gentleman from Pennsylvania, (Mr. FINDLEY,) that it is not sound policy to narrow the range of the choice for the great Executive officers of the United States. I believe it will be narrowed by the proposed diminution of their salaries. On this subject, I speak without any understanding with the gentlemen who at present hold those offices. I believe that inducements other than pecuniary brought those gentlemen into office; and I also believe, that if this blank shall be filled with \$3,500, it will be impossible to get men to hold these offices from pecuniary considerations. We know the fact that no man of talents, devoted to the liberal professions, fails to get a large sum. Of course it follows that men who hold these offices cannot be actuated by such motives. No, it is to an attachment to certain political opinions—to particular men—to the love of glory inherent in every noble breast—that we are to look for the true motives; and these, I believe, are the motives that would induce the men who at present hold these high offices still to hold them, if the compensation were reduced to a single cent. But whether these are

motives which can or ought to induce a man to become a public servant, will you induce such a man to sacrifice his patrimony, or abandon his office, unless fortune has been so kind as to make the sum he is necessarily called upon to expend, to him, a trifling consideration? Is this policy—is it Republicanism—that no man, unless of overgrown fortune, should be able to hold a high Executive office in a fair way? I know there is an abundance of hunters and bidders for offices, who are ready to take them on any terms; but these are not the men with which these important and dignified offices ought to be filled. There is not a doubt, if you put the office of the Secretary of State up at auction, you will get men who will undertake to execute its important functions at the sum proposed by the gentleman from Pennsylvania; but in this way, for a saving of \$1,500, we may lose millions.

I beg gentlemen to attend to the nature and extent of the duties of the great offices of the Department of State and of the Treasury. I speak without reference to those who at present hold them, though I might speak with reference to them. Do not those stations require an unblemished character, the highest talents, and an unwearied assiduity to discharge their duties with benefit to the nation; and can you expect such men to accept such offices for the small sum of \$3,500 a year, if influenced by pecuniary considerations? While gentlemen are for detracting from the little which these great officers possess, we find that collectors, and supervisors, and other officers whose duties are merely ministerial, and which require only ordinary talents, are drawing from the Treasury to the amount of \$5,000 a year; and until a late law passed drew from \$5,000 to \$12,000; and these men, according to the ideas of some gentlemen, are to retain their \$5,000, while the Secretary of State and of the Treasury are only to receive \$3,500.

I well know that when the act establishing the salaries as they now stand passed, it was a subject of clamor; but it was a clamor that never reached me; I mean one by which I was not affected. For I have always believed, in public as well as in private life, it is sound policy to obtain the best agents, to give them enough to do, and to pay them well for their services. I believe that in a single negotiation conducted by a Secretary of State, millions may depend upon the exercise of the discretionary power with which he is clothed. It may depend upon his answer to a foreign Minister, whether we shall have peace or war. There is also a vast responsibility attached to the Secretary of the Treasury; and though the scope of his duties may be less extensive than those of the Secretary of State, yet millions may be won or lost by the manner in which he discharges them. There are other officers whose compensations are fixed by this bill, called upon to discharge high duties, on the proper execution of which much depends.

It may be said, for all these things the President is responsible; that he is, or ought to be a man of the first talents, and that the heads of the

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Departments cannot go amiss without his sanctioning their measures. It has, however, always appeared to me that every form of Government that devolves the whole Executive power on a single individual, differs but in form from that which devolves it upon a plurality of persons. It is the essence of Government that one man cannot execute it alone; and that he is obliged to share it with heads of Departments, or with agents by some other name. The imbecility of human nature is such that he must participate power with others. It is the nature of the human race not to possess confidence in themselves, to take advice, and of consequence to be influenced by others in whom they repose confidence. Whatever, therefore, the theory of the Government may be, the acts of the Government must take their color more or less from the advisers of the heads of the Executive power; and hence the necessity of those advisers being men of wisdom and of the purest character. Such men ought to receive a compensation that will render them independent; for it is in the middling ranks, neither among the rich nor the poor, that such characters abound.

As I have before remarked, I know when the last act on this subject passed there was a clamor; a clamor on one point, and then on another. But what effect had it on the nation? Let us inquire of the people, whether, while the affairs of the nation are so prosperously managed, they are not content to give a fair compensation? We only ask that those, to whom the country eminently owes its peace and prosperity, may be enabled to support with comfort themselves and their families. Let us suppose that those who manage the public concerns had acted indiscreetly; that, instead of preserving us in peace and paying off with great rapidity the public debt, they had produced a state of war, and had saddled the people with additional and heavy impositions. If they, in such circumstances, should ask for salaries and argue that the articles of life are at war prices, I would have them answered: no, gentlemen, you have brought us into war wisely or unwisely, no matter which; it calls for sacrifices; begin at home; you have laid new taxes upon the poor and the rich; live then yourselves upon small salaries, and set an example to the people by being the first to make some personal sacrifices yourselves. I say so to the House. I cannot enter into a comparison of the price of wheat and bread, and other articles of necessity or comfort. I cannot huckster with such men as fill the great offices of Government; and go to them and say whatever your talents, or whatever the services you render your country, you may live on leeks and onions—no, sir, I cannot stoop to this conduct. If on my return home, I should have to tell my constituents, we have reduced the salaries of the heads of the departments, small as they were, to save the public money; but we have made sacrifices at the expense of others—were I obliged thus to address my constituents on my return to them, I should not be able to find language for the occasion. I should blush to tell them, that for my poor insignificant services as a member of this

House, I had demanded what would carry me through the session without debt, while I had screwed from men so superior to me in every respect, the small pittance rendered them as an inadequate compensation for their great services. I should blush to be obliged to tell them so. I cannot go home and address them in this language.

Mr. CHITTENDEN—Mr. Chairman, I rise with extreme diffidence when I consider the talent and experience of gentlemen who compose this honorable House, being unaccustomed to take an active part in public debate. It is a sense of duty and not a matter of vanity which induces me to rise on this occasion. Therefore, without attempting to court praise on the one hand, or fearing censure on the other, I shall, neglectful of both, deliver my opinion on this interesting subject, hoping it will be received with the same candor it is given. The filling the blanks in this bill, or determining the salaries of the officers of Government to be provided for by it, is not a question simply between this House and the persons now holding the offices, but, sir, it is a question in which every individual in society is more or less interested. It is, what the Government ought to allow their public agents or servants as a compensation for their services rendered in their several departments? And sir, permit me to say, I think it a question which this House, as the more immediate representatives and guardians of the rights and interests of the people, ought to decide upon the true principles of honor, justice, sound policy, and strict economy, without reference to particular men or parties, as the bill under consideration has for its object the permanent establishment of those salaries. We ought not to combat with the weapons of passion or prejudice, both of which are known to be the vices of the mind, and unsupported by virtue, justice or honor. The prevailing policy of absolute Governments has ever been to enrich their favorite few at the expense of the nation.

But God forbid that this policy should ever prevail in a Government like ours, the very existence of which, in my opinion, depends on the honor and virtue with which our public officers are selected, and the justice and economy with which they are compensated. The office of Secretary of State is an office of trust and high responsibility, and it requires a person of the first talents to perform its duties with ability and safety to the nation. Those men have been found, who, (to their honor may it ever be said,) have discharged the duties of this office with reputation to themselves and in a manner highly conducive to the prosperity of their country, and for a compensation \$1,500 less than the sum now proposed, until March, 1799, when from a combination of circumstances then existing the advanced prices of almost every article of living, in consequence of the European war, and the inconvenience of the removal of the public offices to the permanent seat of Government, the salaries of certain officers contemplated in the bill on your table were augmented, and by an act passed by Congress in the year 1800 have been continued until



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this time, which act will soon expire, and the salaries remain as they were previous to March 1799. The reasons, sir, which induced the Legislature to pass the bill augmenting those salaries having ceased, and gentlemen in favor of the motion not having been able to offer others which appear to me sufficient, I can see no good reason why at this time we should by a permanent law establish those salaries at the advanced sum now proposed. It is well known that the passing the act augmenting the salaries was a subject of very considerable alarm, and has been made a step-stone to power and preferment by gentlemen, some of whom are now enjoying the benefits arising from the augmentation of those very salaries with perfect satisfaction; and from whom at this time and on this occasion we hear no cry either in favor of economy or against high salaries. An honorable gentleman from North Carolina, (Mr. ALSTON,) expressed his fears that we shall not be able to retain the gentlemen who now fill those offices, nor find others of equal talents willing to accept of the appointment, unless the blank should be filled with the round sum of \$5,000. But, sir, experience teaches us otherwise. It has been very candidly acknowledged, even by gentlemen of the same political sentiments with himself (and I think very much to their honor) in the course of the present debate, that those offices were formerly filled by gentlemen whose talents and integrity were unquestionable, and for a compensation \$1,500 lower than the sum now proposed, and at a time when the means of living were equally as high, if not higher than they now are.

An honorable gentleman from Pennsylvania (Mr. FINDLEY) informs us that, in the course of his long experience, both in this House and in the State Legislature, he has never known a single instance of the salary of any officer being reduced, but often raised. If, sir, any conclusion can be drawn from this statement, it is, in my mind, a sufficient reason why the progress of this prevailing evil ought now to be arrested.

An honorable gentleman from Virginia, last up, (Mr. J. RANDOLPH,) with his usual eloquence, has said much in favor of the talents and discretion of the gentlemen who now fill the public offices—placing the value of their services almost out of the reach of calculation. I, sir, have no disposition to detract from the merit of those gentlemen in the least, neither am I disposed to be lavish of the public money on this occasion; for, from the gentleman's own statement, we are unable to compensate them in proportion to their talents and services. I shall therefore be satisfied with giving them a compensation which I deem adequate to the performance of the ordinary duties of the offices to which they belong. The difference between the present permanent salaries and those contemplated by this bill being something short of \$12,000, the gentleman thinks it a trifling sum—a mere pepper-corn saving; and he says, if our intention is to make a reduction in the expenses of our Government, there are many other objects which he has enumerated, and from which, in his opinion, a saving might with much more propriety be made. This

is a subject worthy of consideration; and, from the gentleman's own showing, I am clearly convinced that this is the proper time to make a stand—a powerful stand, give me leave to say, sir—against every abuse of this kind. And if the gentleman will come forward, I pledge myself that I will join him in examining into, and preventing every improper expenditure of the public money. For, although it may be the opinion of some gentlemen that eleven or twelve thousand dollars is a trifling saving, still I am of a different opinion; and, sir, I am induced to believe that the honest industrious farmer and mechanic, who are accustomed to labor in their own fields and shops—and of this description are a very large and respectable portion of our fellow-citizens—will not consider eleven or twelve thousand dollars an inconsiderable or pepper-corn saving, as the gentleman is pleased to consider it. And, sir, although I am decidedly in favor of allowing a reasonable and adequate compensation to every officer of Government, yet, when we compare the sum of five thousand dollars per annum with the salaries of any of the State officers, and particularly the State which I have the honor to represent, the highest of which does not exceed seven hundred and fifty dollars; or should we compare it with the salaries of the other officers of the General Government, I think the sum proposed must appear too high, or the others comparatively too low. The compensation allowed the Supreme Court of the United States is but four thousand dollars to the chief judge, and to the associate judges three thousand five hundred dollars each. And it must be allowed, that, to fill these offices, it requires men of the first talents and information, who, to discharge the various duties of their offices, are obliged to travel through the different parts of the Union, at very considerable expense, while the Secretary of State and other heads of Departments are at home, enjoying the society of their families and friends. Thus, sir, in every point of view in which this subject has been considered, I am induced to believe the sum proposed too high, and therefore shall give my vote against the motion for filling the blank with the sum of five thousand dollars.

Mr. J. CLAY.—As this subject is one which will probably occasion considerable difference of opinion in the Committee, it is a duty which I owe to myself and to my constituents, to state, in a few words, the reasons which induce me to vote against filling the blank with the larger sum named. I perfectly agree with the gentleman from Virginia, (Mr. RANDOLPH,) in the general opinions he has expressed. I believe, that, unless sufficient inducements are held out to men of talents to accept the first offices, the Government will go to ruin; and I agree that those who hold them are men of talents and virtue. With them it has been my pride to agree in political sentiment, and it has been my duty on several occasions to justify and support their measures. On personal considerations, therefore, I should be the last man on this floor to vote for a diminution of the salaries at present attached to these offices.

The ideas of the gentleman from Virginia are

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such as, it appears to me, would favor any salary, however extravagant, given to these officers. He has not attempted to show that the salaries allowed before the year 1799 were too low. He has objected to some items in the expenses of the Government that certainly militate against the ground he has taken. He has stated that the expenses of clerk-hire and the contingent funds of the Departments are extravagant. Now, the number of the clerks and the direction of the contingent fund depend on the mere will of those who hold these offices. The gentleman gives them great credit for their savings. If it be necessary to save in the clerk-hire and contingent funds of these Departments, why have not these saving gentlemen made the necessary savings? The gentleman has alluded to the nature of the offices under the Government of the United States. They may be considered as of three kinds; such as are menial, and deprive the individuals who hold them of some estimation in society; others that, while they take no honor away, confer none; and others, which give honor to those who hold them. Of the first description, are the offices of clerks, which require a species of talent, and equal integrity with that required for the head of a Department: but there is no acquisition of honor, while there is a sacrifice of personal independence. The second description, in general consists of fee offices, the emoluments of which depend upon contingencies subject to the control of circumstances. They may amount to, but never can exceed, a certain sum. As to the last kind of offices, which confer honor on those who hold them, I believe with the gentleman from Virginia, that, unless there are other motives besides those which are pecuniary, to induce men of talents and virtue to accept them, five thousand dollars will be but a paltry consideration. But if we attend to the nature of these offices, we shall perceive that there are other inducements, such as, to use the phrase of the gentleman, "All noble souls feel the love of glory." But, reducing these motives to mere pecuniary ones, I will ask if three thousand five hundred dollars will not purchase a man of talents and integrity, will the additional sum of fifteen hundred dollars? I believe not.

The gentleman says, we cannot go home, and say to our constituents, while we have reduced the salaries of these offices to the state at which they originally stood, we have not reduced our own. I believe that, in this point of view, those who represent on this floor the seats of commerce, sacrifice more by holding seats in this House than officers who receive an annual compensation. I will ask if the man, whose eye is usually on his own affairs, does not, by a six months' absence every year, sacrifice more than he whose property is vested in a farm, and who receives a handsome salary at the seat of Government? I believe the amount of a member's wages is about eight hundred dollars a year. A clerk, therefore, receives double the sum that is paid to a Representative of the people. The gentleman from Virginia has enumerated other articles of expense as fit subjects for reduction. If the gentleman is willing to enter

into a full review of the expenses of the several offices of the Government, from that of the President to the lowest clerk, and to reduce them from profusion to economy, I am willing to unite with him hand in hand. But this is not the subject at present before the House. As connected with the subject, I should have been glad to have heard any reasons why the salaries, allowed to these officers, were adequate in 1799, and are inadequate now. The gentleman says that he cannot go into detail; that he is unwilling to huckster with the gentlemen who hold these offices. If a vote of this House is to be determined by any epithet which a gentleman may think fit to appropriate to a particular act, we had better rise at once, and trust to chance—for anything may be called huckstering.

I have reasons, which operate with force on my mind, for filling this blank with three thousand five hundred dollars. There exists on this subject a great degree of clamor. How raised, is one thing; that it exists, is another. I consider this clamor as the loud voice of the people. I know that advantages are taken to render the measures of the present Administration odious. I am unwilling, therefore, to give to the enemies of the Administration any advantages that may return to them the sceptre of power which has been recently stricken from their grasp. Believing that the giving large salaries will surely have this effect; believing that the people of the State I have the honor to represent expect a reduction of the existing salaries; believing that a failure to reduce them will produce great clamor among the people, and that such clamor will be just, I shall vote in favor of filling the blank with the smallest sum proposed.

Mr. SANDFORD said the information imparted by the gentleman from Virginia had enabled him to give a correct vote on this subject; before he did which he should trouble the House with a few observations. His ill state of health had not permitted him to attend to the progress of the bill before the Committee, and when he before rose he was new to the subject. But, from the remarks which had dropped from different gentlemen in the course of this debate, he had found no reasons that satisfied his mind of the propriety of a reduction of the salaries of the officers contemplated in this bill. He, on the contrary, believed those salaries were at present full low enough. It was a maxim with him, unless good reasons were offered for the reduction of salaries, to be in favor of continuing them; and no such reasons had he heard. It had been stated by a gentleman from Pennsylvania (Mr. CLAY) that the wages of a member of that House amounted only to about the rate of \$800 a year: that statement was incorrect; calculating for the year at the rate per diem they would amount to about \$2,100 a year, and in the case of members, living remote from the seat of Government, to about \$2,500. He would ask the House to recollect the difference between his services, and those of a head of a Department; and yet he received more than half of the compensation made to the highest officers under the

Government, excepting the President and Vice President. Mr. S. said he was clearly of opinion, for these and other reasons, that the salaries should continue to stand as they then did.

Mr. SKINNER rose, and made some preliminary remarks, not distinctly heard. He then said, his opinion was that this place was more expensive than any within the United States. Comparing the expenses here with those in the east wing of the continent, they bore no proportion. Gentlemen say these are war salaries; and is there not now a state of war in Europe? Would it then be wise, when these salaries were formed under circumstances arising out of war, to reduce them at the commencement of another war, before its effects are known? He drew, in his mind, a distinction between increasing salaries, and continuing them after such increase. At the time these salaries were increased, it had been stated as a reason for the increase that we were about removing the seat of Government to this place; but he believed it had been opposed on this ground, that it would be best to wait until the Government was removed, when, being here, the necessary expenses could be better ascertained.

Much has been said of economy. Mr. SKINNER said he had never been for fixing the compensation of officers so low as not to admit the highest talents. True economy, in his opinion, consisted in saving unnecessary expenses; and this would be effected by filling the first offices of the Government with the best men in the Union. Let it be recollected too that these officers have been arraigned before the public until the weapons of slander had broken harmless at their feet. Was this a time to reduce their compensations? Such a measure would surely be most indiscreet, as it might produce an impression of demerit on their part. It would also be an act of ingratitude to the people. Mr. SKINNER stated his belief, that, so far as related to his constituents, the present salaries were deemed no greater than the officers merited, and not more than sufficient to support them. He said he was against continuing useless systems that involved expense, but should be one of the last to reduce the salary annexed to an office of the first importance. He had never been in the habit of contemplating a reduction of these salaries, or of relying upon the patriotism of officers. He believed the best way was to give salaries to the public officers that would enable them to live comfortably. Suppose the patriotism of the gentlemen now in office should not induce them to continue in place at reduced compensations, would we be able to select men of the first talents to supply the vacancy? He did not believe they would. He should, therefore, vote for the highest sum.

The question was then taken on filling the blank with \$5,000, and carried—yeas 78.

On motion of Mr. J. Randolph the blank respecting the salary of the Secretary of the Treasury was filled with \$5,000.

Mr. J. RANDOLPH then moved to fill the blank respecting the salary of the Secretary of War with \$4,500, which was carried—yeas 75, as was a

similar motion respecting the Secretary of the Navy with the same sum.

On a motion to fill the blank respecting the Attorney General with \$3,000, Mr. J. CLAY asked for information; the reasons in favor of the salaries allowed to the other officers, did not, in his opinion, hold good in this case. He moved to fill the blank with \$2,000.

Mr. J. RANDOLPH.—The gentleman from Pennsylvania asks for information, and professes ignorance of the duties of the Attorney General. I believe those duties are prescribed by law. As to his compensation, the first act, passed under this Government, gave him \$1,500. In 1792, \$400 were added; and in 1797, \$500 more were added, making in the whole \$2,400. By the act of March, 1799, this salary, with the others, was raised to \$3,000. It appears to me that these progressive additions made to the original salary of this officer, furnish proof that it has heretofore been too low. The gentleman proposes to make the salary \$2,000, when, before the passage of the act of March, 1799, it was \$2,400. In my turn, let me ask the gentleman from Pennsylvania—and it is the first inquiry I have made of him—his reasons for reducing this salary below that fixed previously to 1799? I understand him as willing to put the salaries generally on the same footing on which they stood before the passage of the act of 1779. This salary was then 2,400 dollars; it then was increased with the rest, and having been increased proportionably with them is a reason with me that it is not exorbitant and does not require diminution. I have no other reason to offer. The gentleman asks if the important officers at the head of the State and Treasury Departments receive only \$5,000, why we give \$3,000 to an inferior officer? For the plainest reason on earth. We must give him a salary that will enable him to live in a comfortable manner. I agree with the gentleman, if we were to remunerate our officers in the ratio of their merits, and were to give the Comptroller \$3,000, we ought to give to the head of the Department at least \$50,000. I speak as to the offices, not as to the men that fill them. But this is impossible. It is, however, proper that every man should live in some style; however we may reason on this point, the feelings of men will decide it. This is my reason for giving the Attorney General \$3,000. If I am asked, why give our Clerk \$2,000, or his chief clerk \$1,300, I have no other reason. There is no doubt, if we give our Doorkeeper \$800, \$5,000 is not competent to the Secretary of State; but it is necessary, nevertheless, to give our Doorkeeper enough to live on, that we may insure his daily faithful services.

While I am up, I will take the opportunity of making an explanation, which will show how far I have been misunderstood by the gentleman from Pennsylvania. I did not state, as represented by him, that the contingent expenses of the Departments were profuse, or that any reform could be made in them. But I went over the list to show that, if the object of gentlemen really was to make a saving of the public money, it was

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in them that it was to be made, and not in the salaries of particular officers. I stated that, in the Department of the Treasury, whose whole expenses are \$100,000, it was idle to attempt an economical reform, by curtailing a few salaries. I could not have stated that I considered the Departments conducted with profusion, for I do not believe it.

I also stated that gentlemen who wished to save money should resort to the Marine and Military departments, and that they were the two great sinks of nations; but I did not state that they were the sinks of this nation. Did the gentleman ever hear of a nation ruined by its civil list? I do not, however, mean to say that abuses should be tolerated in the civil list, but that in great pecuniary reforms, we ought to begin with the marine, the army, diplomatic expenses, and then come to the civil list—thus embracing a full inquiry into the expenditures of the Government.

Mr. SKINNER said he was for continuing the salaries as they stood. If he were disposed at all to alter them, he should be in favor of raising that of the Attorney General. The reason at first assigned for the smallness of the salary of this officer was, the residence of the Government at a commercial city, where he could discharge the duties of his office without sacrificing his professional pursuits. This reason had ceased.

Mr. J. CLAY merely rose to answer one question of the gentleman from Virginia, who had asked why he was in favor of reducing this salary? Simply because the services rendered by the officer were more than adequately compensated.

Mr. NICHOLSON observed that the gentleman from Pennsylvania was mistaken in saying that the Attorney General was more than compensated for his services. Mr. N. could not say, with precision, what those services were. But he knew that there was scarcely a law in relation to the revenue that did not come under the view of this officer for his advice and opinion. He knew that he was frequently called upon by the heads of the Departments for his opinion of the construction of laws. He was also a member of the Cabinet, and was bound to give an opinion, in writing, to the President, whenever required. It was, therefore, absolutely necessary that this officer should be a man of the first talents and integrity. Mr. N. was of opinion that he ought to be a man of equal talents and integrity with those at the head of the Departments. Not, however, being obliged to relinquish all professional pursuits, it was not necessary that he should have an equal salary with them.

For some time it had been the practice of the Government to compensate the Attorney General for extra services. For such services, performed under the British Treaty, he had been allowed \$600. His salary, with this additional compensation, had never been heretofore considered as more than sufficient. It was true that his duties were not so arduous as those of the heads of the State and Treasury Departments, but they require equal talents and integrity; and if the offi-

cer should be brought from a distance, he ought to be enabled to live comfortably.

Mr. GODDARD asked if the \$600 alluded to by the gentleman from Maryland, did not make part of the salary of \$3,000 given the Attorney General, although the services for which the \$600 were allowed were at an end?

Mr. NICHOLSON replied that the gentleman was mistaken. The Attorney General had received \$2,600 since the year 1799, when the salary was raised to \$3,000.

Mr. GODDARD said he considered the augmentation of the salary from \$2,400 to \$3,000 as having arisen from the temporary duties of that officer, which augmentation was made by a temporary law.

Mr. NICHOLSON.—By an act passed in 1797, an additional compensation of \$600 was allowed this officer. In 1799, his salary was fixed at \$3,000. He accordingly received thereafter \$3,600 until his temporary duties under the English Convention were completed.

The question to fill the blank with \$3,000 was then carried in the affirmative—yeas 59, nays 30.

It was then agreed, without a division, to fill the several other blanks with the same sums allowed by the act of March, 1799, to the Comptroller, the Treasurer, the Auditor, the Register, and the Accountants of the War and Navy Departments.

On filling the blank respecting the Postmaster General, Mr. LYON moved to fill it with \$3,500.

Lost, without a division.

It was then agreed to fill it with \$3,000, and that respecting the Assistant Postmaster General with \$1,700.

Mr. EUSTIS moved an amendment to the first section, so as to make it read "that, from the end of the present year, the following annual compensations, as established by an act passed on the 2d of March, 1799," &c.

This motion was opposed by Messrs. LOWNDES and GODDARD.

Carried—yeas 65, nays 43.

The Committee then rose and reported the bill, with amendments, which the House immediately took up.

On the question to agree to the first amendment, (that moved, as above, by Mr. EUSTIS.) Mr. J. CLAY hoped it would not be agreed to. As it decided the principle of the bill, he called for the yeas and nays; which, being taken, were—yeas 69, nays 46, as follows:

YEAS—Willis Alston, jun., John Archer, David Bard, William Blackledge, John Boyle, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, Peter Early, John W. Eppes, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Sam-

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uel L. Mitchell, Thomas Moore, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, John Randolph, jun., Thomas M. Randolph, John Rhea of Tennessee, Cæsar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, John Whitehill, Richard Winn, and Thomas Wynns.

**YEAS**—Nathaniel Alexander, Isaac Anderson, Geo. Michael Bedinger, Silas Betton, Phanuel Bishop, Robert Brown, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Joseph Clay, Matthew Clay, John Davenport, Thomas Dwight, John B. Earle, James Elliott, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Seth Hastings, Joseph Heister, William Hoge, David Hough, Benjamin Huger, Samuel Hunt, Michael Leib, Joseph Lewis, jun., Thomas Lewis, Thomas Lowndes, Nahum Mitchell, Jeremiah Morrow, Thomas Plater, Samuel D. Purviance, Jacob Richards, Thomas Sammons, Richard Stanford, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, George Tibbits, Isaac Van Horne, Peleg Wadsworth, Marmaduke Williams, and Joseph Winston.

The second amendment was to fill the blank in relation to the Secretary of State with \$5,000.

Mr. J. RANDOLPH observed, that as this question would more correctly than the last try the sense of the House on the principle of the bill, he desired the taking the yeas and nays; which, being taken, were—yeas 83, nays 28, as follows:

**YEAS**—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Silas Betton, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Clifton Claggett, Thomas Claiborne, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, Thomas Dwight, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, James Holland, David Holmes, Benjamin Huger, Samuel Hunt, Walter Jones, William Kennedy, Nehemiah Knight, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, Samuel L. Mitchell, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rhea of Tennessee, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, John Whitehill, Richard Winn, and Thomas Wynns.

**NAYS**—Phanuel Bishop, William Chamberlin, Martin Chittenden, Joseph Clay, Matthew Clay, John B. Earle, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Seth Hastings, Joseph Heister, William Hoge, David Hough, Michael Leib, Joseph Lewis, jun., Tho-

mas Lewis, David Meriwether, Thomas Moore, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Richard Stanford, James Stephenson, John Stewart, George Tibbits, Isaac Van Horne, Marmaduke Williams, and Joseph Winston.

The remainder of the report was then agreed to, without a division;

When the question on engrossing the bill for a third reading on Monday was taken by yeas and nays, and carried in the affirmative—yeas 78, nays 28, as follows:

**YEAS**—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, Silas Betton, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Clifton Claggett, Thomas Claiborne, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, James Holland, David Holmes, Benjamin Huger, Walter Jones, William Kennedy, Nehemiah Knight, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, Samuel L. Mitchell, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rhea of Tennessee, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, Samuel Tenney, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, John Whitehill, Richard Winn, and Thomas Wynns.

**NAYS**—George Michael Bedinger, Phanuel Bishop, William Chamberlin, Martin Chittenden, Joseph Clay, Matthew Clay, John Davenport, Thomas Dwight, John B. Earle, Calvin Goddard, Gaylord Griswold, Seth Hastings, Joseph Heister, William Hoge, Michael Leib, Joseph Lewis, jun., David Meriwether, Thomas Moore, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Richard Stanford, James Stephenson, John Stewart, George Tibbits, Isaac Van Horne, Marmaduke Williams, and Joseph Winston.

MONDAY, November 21.

Two other members, to wit: SIMON BALDWIN and BENJAMIN TALLMADGE, from Connecticut, appeared, produced their credentials, were qualified, and took their seats in the House.

The SPEAKER laid before the House sundry depositions and other papers transmitted from Kenawha county, in the State of Virginia, respecting the contested election of THOMAS LEWIS, one of the members returned to serve in this House for the said State; which were ordered to be referred to the Committee of Elections.

#### SALARIES OF CERTAIN OFFICERS.

The bill fixing the salaries of certain officers therein mentioned, was read the third time, and on the question, "Shall the bill pass?"—

Mr. TAGGART said:—I rise, Mr. Speaker, for the

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purpose of stating some reasons for the vote which it is probable I shall give on the passing of the bill now before the House. I feel no hostility to the principle of the bill in general. I am not certain that any of the specific sums contemplated as salaries are too high. With the official duties of several of the Departments I am unacquainted, and therefore consider myself as not being a competent judge. With respect to some of them, however, when we bring into view the great importance of the trust to the United States, the high responsibility of the respective officers, and the talents necessary for the prompt discharge of the duties, I am persuaded the salaries are not too high. This I view to be particularly the case with the Secretaries of State and of the Treasury. I believe, sir, that where an office is of such high trust and responsibility as to require men of the first characters for talents and integrity to fill it, it is the truest economy for Government to give such encouragement as shall be adequate to the calling forth of those talents. Though the time has been in our country (and possibly may again arrive) when there was a loud call upon the patriotism of individuals to make important sacrifices, both of their own property and ease, for the public good, yet in a time of profound peace and national prosperity—when we are blessed with a regular Government—a productive revenue, and a full Treasury, adequate to all necessary expenses—for a man to abandon the superintendence of his domestic concerns, and, for a great proportion of his time, the comforts of domestic life, and, as is frequently the case, the emoluments of a lucrative profession, and embark in the public service without an adequate compensation, is a species of sacrifice which the public has no right to expect from individuals. I make no doubt but the highest departments of State may be filled for a less sum than the one contemplated in this bill. But to starve the Departments by rendering the salaries inadequate to the calling forth the first talents of the nation, is the way to have them either filled with men unequal to the trust, or to force worthy men, who have it at their option to follow other honorable and lucrative employments, frequently to abandon the public service, thereby exposing the Department to such frequent changes and resignations as must be highly injurious to the public. By saving in this way three or four thousand dollars, we may run the hazard of losing millions, by having the business pass into inexperienced and unskilful hands, while, had an adequate compensation been allowed, the man of real talents and integrity would have felt an honest pride in continuing in the public service, and discharging the duties of his office with promptness and fidelity. Some have in this House spoken warmly of the merits of the gentlemen who fill the respective Departments. I have no disposition to detract from their merits. But I apprehend, Mr. Speaker, that this is not a principle which ought to have the least influence in fixing the quantum of salaries for the several Departments, and I trust is not the motive with any gentleman on this floor. Perhaps these Departments

never have been and never will be filled by men for whom every member of this House has an equal esteem. Perhaps there never, either, was or will be a time when, if the members of this House were to consult their own feelings of personal attachment, they would not, some of them, at least, be led to make a discrimination in the several heads of Departments. But the feelings of private esteem and friendship ought, in my opinion, to have no influence whatever in fixing the quantum of salaries. The only principles by which, as I apprehend, the House ought to be governed in making the specific appropriation, are the importance of the office itself to the United States, the responsibility of the respective officers, and the talents necessary for the discharge of their high trust. In this view of the subject, I do not know that the salaries are too high, and shall not oppose the passing of the bill now before the House. But to the passing of the bill in its present form I shall have objections, arising chiefly from the amendment introduced by my colleague from Massachusetts, (Mr. EUSTIS.) Having formed a high opinion of the candor, and having been several times witness to the accuracy of that gentleman upon the floor of this House, conjecture has been busy in inquiring what could possibly be his motive for introducing, and what possible advantages the bill could receive by being encumbered with the above amendment? If the bill cannot stand on the footing of its own intrinsic merits, it ought to be abandoned. Why, then, shall we attempt in an indirect way to prop it? For myself, I can conjecture only two reasons for which a clause of this kind should be introduced. Either it must be adapted to the circumstances of those who were members of this House when the law of 1799 was passed, and who opposed the enacting of that law, to come forward in an indirect manner and practically own that their opposition to that law was wrong. If this is meant, I can certainly have no objection to gentlemen confessing an error, though the confession should be made in an indirect manner. I conclude, however, that this is not the intention; therefore, does not the language of the amendment, apparently, at least, amount to this? We have a secret conviction that the law in question is not quite right, but we do not wish to disoblige our friends by lowering the salaries, and we do no more than the majority of both Houses did in 1799, to oblige their friends; and in order to show that we do no worse, we will allude to that law, and make it the basis of the present, thereby making it the scapegoat to bear our transgressions. But should this be intended, I think it will by no means answer the purpose. Reformation, particularly with regard to salaries as well as other expenses, was what was called for and expected. It will not satisfy that expectation to say we have done no worse than the Congress of 1799. As I had not at that time the honor to be a member of this House, and consequently can have no confession to make; and as I feel a willingness that the law should stand upon the footing of its own intrinsic merits, independent of the law of 1799, which has

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already once died a natural death, and after being again revived is upon the point of expiring, I feel opposed to this amendment. But, Mr. Speaker, I have still a farther objection to it. By means of this amendment, the bill, which was before sufficiently plain to the meanest capacity, becomes perplexed, and apparently, at least, at variance with itself. The bill now before the House proposes to fix the salaries of these officers. It was only a temporary grant for three years. I do not understand that any permanent law was ever made for fixing the salaries of these officers, only the law of 1789, which fixed the salaries of the two Secretaries of State and of the Treasury at \$3,500 each, and the others in proportion. The object of the present bill is to fix permanent salaries. But professedly to fix these upon the principles of a law which did not fix, and never was intended to fix them, appears to me to render the bill completely inconsistent with itself. I humbly conceive, therefore, that the amendment introduced by my colleague from Massachusetts is not only needless, but tends to destroy the force and consistency of the bill itself; and for these reasons, though not opposed to the general principles of the bill, I cannot, in its present form, give it my vote.

MR. HASTINGS.—Mr. Speaker, I am one of those who are willing to allow to every public officer a reasonable, just, and honorable compensation for his services. I am for annexing to the great and important offices of our Government such salaries as shall be sufficient to induce persons of suitable and proper talents to fill them. I am not disposed to pay our public officers grudgingly for their labors; but I think the salaries we propose by this bill to grant are too high.

By the law of 1789, the salaries of Secretary of State and Secretary of the Treasury were each fixed at \$3,500, and the salary of the Secretary of War at \$3,000; I would ask if those salaries did not then command the first talents of the country? Was not Mr. Jefferson the first Secretary of State under the present Government? And did he resign that office because the compensation was insufficient? I believe not. I have never understood that this was the cause of his resignation. As to the first Secretary of the Treasury, (General Hamilton,) when we consider his great professional talents as a lawyer, and the great profits he might have made by the exercise of those talents, (probably to three or four times the amount of his salary as head of the Treasury Department,) we cannot, I think, be surprised at his resignation; it must be more a matter of surprise that he should have ever accepted of the office; or, after having accepted it, that he should have continued in it so long as he did. Did the first Secretary of War (General Knox) resign because his salary was insufficient? I have never understood that to have been his reason for resigning. But admitting that the insufficiency of salaries was the only reason which induced those gentlemen to resign their offices, I then ask, was there any difficulty in finding persons of suitable talent to fill those offices for the same compensations al-

lowed to their predecessors? This, I believe, will not be pretended. What, then, were the reasons for augmenting the salaries of those officers in 1799? The reasons have been stated in the course of the debate—a war had been raging in Europe for four or five years, and one of the effects of that war upon this country was to advance the price of provisions and most of the necessities of life beyond what perhaps had ever before been known in this country. Flour at that time, we are told, was sold for fifteen and sixteen dollars a barrel, which is now selling for six and seven dollars. House rents, we are also told, were much higher at that time in Philadelphia than at the present time. These are some of the reasons which I presume then induced the National Legislature to increase the salaries of certain officers of the Government for a limited time only; the inquiry then is, have the causes which gave rise to the temporary augmentation of salaries in 1799 ceased to exist? If they have, ought not the effect also to cease? I would ask, if it costs the heads of Departments as much to live in this city now as it did in Philadelphia in 1799? Are house rents as high, or have they ever been as high in this city as in Philadelphia? I apprehend it will not be pretended that this now is or ever has been the case. I have been informed that house rents in most parts of this city, except just in the neighborhood of the Capitol, have (within twelve or eighteen months past) fallen forty or fifty per cent., and that within the same time rents for houses the nearest to the Capitol have fallen from twenty to twenty-five per cent. Are provisions as high now in this city, or in Philadelphia, or in any part of the country, as they were in 1799? Is flour now selling for fifteen or sixteen dollars a barrel, and other articles of produce and of the first necessity, in the same proportion? Are the heads of Departments, whose salaries we now propose to augment, in a situation which obliges them to receive and entertain more company in this city than in Philadelphia? At a time, then, when the prices of house rent, of provisions, and many articles of the first necessity, are reduced from what they were in 1799, some of them probably to nearly their standard prices in 1789, yet in these times of economy, when the cry is to save the public money, we are about to give an instance of our love of economy, by increasing the salaries of certain officers of our Government.

One of my colleagues has assigned as one of his reasons for the proposed augmentation of salaries, that a war had recommenced in Europe, and that this war may produce the same effects in this country, in raising the price of produce and articles of the first necessity, which the last war produced. But will it not be prudent and proper for us to wait and know whether the same effects are produced by the present European war, before we undertake to increase salaries? Although my colleague does not now consider the proposed salaries to be too high, yet I find that in 1799, when house rent and provisions, I apprehend, were much higher than they now are, he voted against the temporary augmentation of salaries—



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against those salaries which it is now the object of this bill permanently to establish. He says, also, that he has not heard any complaints against salaries in that part of Massachusetts in which he lives. No doubt my colleague is correct; but compare the salaries proposed to be increased by this bill with the salaries of other persons in the Government, with the pay of members of Congress, with the salaries of the highest State officers, and they appear to be enormously high. In Massachusetts the Governor has a yearly salary of \$2,666 66. The Judges of the Supreme Court, who, in holding courts in the several circuits, are obliged to be absent from their families half the year or more, have each a permanent yearly salary something short, I believe, of \$1,200, except the Chief Justice, who has something more than that sum; the Treasurer, Secretary of the State, and Attorney General, each permanent salaries, I think, of \$1,000; and yet I have never understood that there has been any difficulty in Massachusetts in procuring suitable and proper persons to fill those important offices. I believe, however, that for a few years past some temporary grants have been made by the State to those officers (excepting the Governor) in addition to their fixed salaries.

The bill before the House is intended to increase and make permanent the salaries of the officers therein mentioned—the law of 1798 was only temporary. By that law the salaries of certain officers were increased for special and sufficient reasons, which then existed; but now, when those reasons, or many of them, no longer exist, we are about to augment salaries and render permanent those which were only limited and temporary.

Considering the increase and depreciation of money, arising from the increase of bank institutions and other causes, perhaps the salaries of the officers named in the bill, as at first established in 1789, may now be considered as too low; but the great augmentation which by this bill we propose to make to some of those salaries, I cannot but consider as too high for the present time, and I must therefore vote against the passage of the bill.

Mr. VARNUM.—My two colleagues have expressed an opinion, in which I agree, that the salaries of the officers mentioned in this bill as fixed before the year 1799, are, under the existing state of things, too low for the present time; but they have drawn different conclusions from this fact. I believe they are not now too high, and shall therefore vote in favor of the bill. For, although I voted in 1799 against the bill for augmenting salaries, I believe there is a perfect consistency in the vote I then gave and in that which I shall this day give. My colleague last up, has stated that rents are fifty per cent. lower in this city than they were at Philadelphia in 1799. For such an opinion I can find no data. In my mind, the statement is highly erroneous, and I believe the other statements of the gentleman are equally erroneous. I wish he had brought forward the data on which he hazarded such statements. He further states that provisions are at present forty or fifty

per cent. lower than they then were. This remark may, perhaps, be just in its application to bread, but it will apply to that article only; and this arises from circumstances of a temporary nature, well known to every member of the House. There were greater crops of wheat the Summer before the last than were ever before known, and the surplus of those crops now on hand has reduced the price. My colleague lives in the midst of a country where one great staple article, beef, is raised in great quantities. I will ask him whether that article has been higher at any period since 1799 than it has been for three months past? You may go through all the other articles of living, and you will find them, on the average, to be about the same thing that they were in 1799. But will my colleague say that any kind of manual labor is now lower than it was at that time? He will not. He must acknowledge that the reverse is the case in the country where he lives, and that a laboring man is there enabled to procure more for the occupation of his time than he could five years ago. These being the facts, the conclusions of my colleague do not hold, when the principles on which he founds them do not exist. I have reasons which justify me for voting for the bill. I believe that a person in genteel life might entertain company in Philadelphia in the year 1799 as well for \$3,500 as he can here at this time for \$5,000. If this be a fact, of which I have no doubt, the salaries allowed by this bill bear only a proper proportion to those that then existed.

My colleague observes that we are in favor of making this bill perpetual. But he will recollect that the other day a resolution was introduced for making it temporary. Yet he voted against it, and though he now acknowledges that the salaries, as they stood before the year 1799, were too low, yet he does not make any specific proposition to increase them, but contents himself with voting against the whole bill.

My colleague has additional reasons for voting against this bill, inasmuch as it is propped up, he says, by the act of 1799. I voted for the amendment to which the gentleman refers for this reason: When the last act on this subject passed, we heard it echoed and re-echoed through the newspapers that an economical, saving Administration had raised their own salaries; and to prove this, a contrast must be made in distinct columns between the salaries as they existed previously to the passage of the act of 1799 and as they then stood; and in some districts of the country the people were deceived, and made to believe that this Administration, instead of continuing, had raised the salaries. This, together with the calumny, industriously circulated, that secret-service money to a vast amount was put into the hands of the President, alarmed the people. To prevent the repetition of like misrepresentation, I voted for the amendment.

Mr. V. concluded his remarks by observing that he should vote for the bill on the express principle that it did not give to Executive officers higher salaries in this place than they received in Phila-

delphia. In addition to this consideration, is it probable, inquired Mr V., that gentlemen competent to the discharge of the high duties of the first offices under the Government, will serve as low here as they would in New York or Philadelphia? Will they have no regard to the prospect of educating a rising family? Is this circumstance no inducement to an individual to accept a lower compensation where the means of educating his children exist, than in a place where they are not to be found?

Mr. ELLIOT.—I feel no disposition to detain the House many minutes upon this question. I shall be brief in my remarks, with the less reluctance, from the reflection that it is almost impossible, at the commencement of the debate, to say anything new upon the subject. But, as I represent a portion of the American people, than whom none are more attached to the principles of political economy, or more sparing in the compensation they afford their public officers, and, as the views I take are somewhat different from those of any gentleman who has spoken, I must be indulged in a very few observations.

I candidly confess, sir, that I have not examined this subject with that minute exactness with which I wish generally to investigate subjects of consequence that come before this House. To dispose my mind for a decision, I do not wish to calculate the exact differences between the prices of house rent, beef, flour, or butter, at Philadelphia or Washington, in 1799, or 1803; I do not wish to ascertain the precise sum necessary for the support of a family in genteel life; I do not ask what were the political sentiments of the men who raised the salaries to the present state; I do not ask for the information that the Governor of Massachusetts receives two thousand six hundred and sixty-six dollars and sixty-six cents, nor do I wish to inform other gentlemen that the Governor of Vermont receives but seven hundred and fifty dollars as an annual salary. I am satisfied with general views of the state of society, of the importance of the offices in question, and the talents requisite for the discharge of their duties. These general views satisfy me that the blanks in the bill on the table have not been filled with sums too large. I think it unnecessary to attempt to form a scale of the relative usefulness of those persons who may fill these offices at different times. But is it possible to arrest the progress of society and manners? I wish we could be as simple and economical as the ancient Romans. But I think it in vain to strive to stop the progress of society to refinement, or even to luxury and extravagance. The present question is not, shall we augment salaries? But, shall we continue them as they are? Fears seem to be entertained by some gentlemen, that we must raise them hereafter, and some think the present law will be unpopular. We ought, undoubtedly, to raise them hereafter, if it should be necessary, but it is a strong argument with me in favor of the bill, that the *quantum* of salary, which it contemplates, has been established for some years; if we now reduce it, we shall have frequent complaints, and probably

just ones, of its insufficiency, and we shall annually be employed in augmenting or reducing. I wish to make these salaries permanent, and to establish them on such a liberal basis, that there will be no probability of our being called upon again very soon for a further augmentation. My constituents are attached to the principles of economy. I am attached to them myself. But I believe that the whole people, were this subject properly explained to them, would be satisfied, although the round sums with which the blanks are filled seem so large to the farmer and to the day-laborer.

While I do my duty, I am regardless of the consequences to my own popularity, which may result from the vote which I shall now give. I wish for no popularity which is not founded on independence of sentiment, and conduct dictated by a liberal policy.

Mr. HOLLAND said, though it was probable he should ultimately vote for the bill, he considered it exceptionable on account of its permanency. He did not consider this a proper time to fix the permanent salaries of their officers. He looked forward to the time when those officers might execute their duties for a lower sum than that at present necessary. The present situation of this city rendered their discharge extremely inconvenient. But the time was fast approaching when the city itself would afford talents for filling these offices, which were at present drawn from a distance. For these, and other reasons, he was in favor of limiting the period of the bill. For this purpose, he moved a recommitment of the bill to a select committee, to fix a limitation to it.

Mr. J. RANDOLPH.—I know of no object for which this bill can be recommitment but to delay the proceedings of the House. I am satisfied the worthy member from North Carolina has no such intention; but such, notwithstanding, will be its effect. What has been the course pursued in this business? A gentleman from Virginia, in the first instance, made a motion for continuing, for a further and limited time, the law of March, 1799. It was objected, that this simple proposition did not give the individual members of the House an opportunity of canvassing the amount of salary allowed by that bill to each officer; and that a disposition might exist to increase some and to diminish other salaries. It was also objected that a temporary provision ought not to exist for permanent offices; and alleged that the House ought to be liberated from the unpleasant necessity of discussing the subject every two years. On this ground the resolution was disagreed to, and a substitute was referred to the Committee of Ways and Means. That resolution was, not that it was expedient to continue the law of 1799, for a particular time, but that it was expedient to fix by law the salaries, or, in other words, to make them permanent. Not make them permanent, by putting it out of the power of the Legislature at any time, when they shall see fit, to alter them—for, at any future time, they will have a right to repeal this act—but to make them so far permanent as to relieve Congress from discuss-

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ing the subject every session of a new Congress. Thus instructed, the committee reported a bill in blank. In filling up these blanks, every gentleman possessed the right of objecting to every item. The sense of the House was fairly taken, and the result was a determination to establish the salaries precisely on the same basis fixed by the law of 1799. Now, it appears to me, that if there really are any electioneering views within or without these walls, which I am sorry to see displayed on the floor of this House, gentlemen will be willing to fix the responsibility of raising the salaries upon certain members, and other gentlemen, if actuated by such motives, will not fix the responsibility on themselves, but place it where it ought to rest, by re-enacting the law of 1799. But, for myself, I entertain no fear of the public sentiment respecting any measure dictated, as this is, by a regard to the public good. I believe that, to legislate on other principles, is tacitly to say the people are incompetent to their own government.

So much as to the recommitment of the bill. When I came into the House, I found the reverend gentleman from Massachusetts delivereng his sentiments, on which I beg leave to offer a few remarks. I understood the reverend gentleman as maintaining that, in the discussion of this bill on a previous day, the salaries, as now established by law, were advocated from personal friendship to the gentlemen now in office. I can only reply for myself that I did not advocate them on that principle, and, for others, that if they advocated them from that principle, it altogether escaped my notice. Another objection of the reverend gentleman is, that an amendment, made by a gentleman from the same State with himself, (Mr. EUSTIS,) represents these salaries as the same with those established by the act of 1799. This is either a matter of fact, or it is not. Let gentlemen examine the laws; let them compare every salary fixed in this bill, with every salary established by the act of 1799, and say whether they are not the same. If this is the fact, can the insertion of the amendment, which is at most an act of supererogation, vitiate the whole bill? Is it sufficient that it contains a declaration of a fact which no one can deny, and which does not affect its details, to vitiate it? When the gentleman began his observations, I had not taken my seat. There may have, therefore, been some observations of weight which I did not hear. But, if the rest were of the same nature with those I did hear, I would wish it were consistent with the rules of our proceeding to have dispensed with the reading, and to have printed the speech for the use of the members, or of those for whom it was intended. In some of the remarks which I did hear, the reverend gentleman violated all the rules of the drama. I have always understood that the scape-goat had gone into the wilderness, and was never afterwards heard of. But a few days since he had been packed off by a gentleman from Connecticut, loaded with our political sins. Is it possible, then, that since last Friday, when we first heard of this scape-goat, that so many sins have

accumulated upon us as to require the sending another scape-goat, in expiation of them, into the wilderness? The reverend gentleman may, however, say that he is not acquainted with the rules of the drama, and that they have nothing to do with his professional concerns; but still I should have supposed him better acquainted with his profession, than to have introduced this scape-goat a second time.

The gentleman from North Carolina (Mr. HOLLAND) has taken a ground that will defeat his own motion. He observes that there is not at present sufficient talents in the City of Washington for the filling of these offices; though there may be, in a short time. I should be happy if the citizens of Washington comprised persons capable of executing all the great offices of the Government; but I should look with regret to that time, if I supposed, when it arrived, there could be a necessity to fill those offices from such persons; as I never wish to see the time when all the great officers of the Government shall be taken from a disfranchised Territory. Independent of the consideration arising from the propriety of obtaining that information, which can only arise from a selection of men from the different parts of the Union, I never wish to see the time when these great officers shall be taken from men not endowed with the blessings of self-government.

For these reasons, I hope the bill will pass, and that this discussion will be laid aside, until, at some future day, it may be considered proper to enter into an inquiry as to the expediency of reducing or increasing the salaries. I believe, however, from the progress of society and the depreciation of money, the time will never come when it will be expedient to reduce them.

I will now say a word in reply to the gentleman from Massachusetts, (Mr. HASTINGS,) who advocates a reduction of salaries, not because they are too high for men of eminent professional talents, but because they are enough for the men now in office. I understood him as saying the present salary was not too much for a gentleman once Secretary of the Treasury, (Mr. Hamilton,) respecting whom the only wonder was, that he had accepted that office, or, having accepted it, had so long continued to hold it.

Mr. HASTINGS desired to explain. He had stated that the first Secretary of State (Mr. Jefferson) had not resigned his office because his compensation was too small. He had stated that the Secretary of War had not, he believed, resigned solely on that account. He had stated that it was a matter of surprise, that a gentleman of such great professional talents as the first Secretary of the Treasury, had ever accepted, or, having accepted, had so long continued to hold the office.

While up, he would reply to his colleague (Mr. VARNUM,) who had asked if beef and other articles were not higher at present than they ever had been in the part of the country in which he lived. He would answer that they had not been so high in that part of the country for two or three years past, as they were in the year 1799.

Mr. RANDOLPH.—I assure the gentleman from Massachusetts that it is no part of my intention to enter into a comparative view of the merits of the officers of the present Administration and those of the last.

I regret that the gentleman from Massachusetts, (Mr. VARNUM,) who possesses so strong a claim to the consideration of the House, should have made an exposition calculated to repel newspaper animadversion. I believe that it is a task beyond the power of that gentleman, or any other, to check its misrepresentations. I believe, likewise, that it is enough for a member of this House to repel arguments adduced on this floor, without descending to a warfare with the editors of newspapers.

Mr. HOLLAND said, he was very far from intending to say that the time was near at hand when all the offices might be filled by persons residing in this city. He only meant to say that some choice might be made from among them; and that the inducements would hereafter be greater to gentlemen to come forward than they were now. The only inducement that could now operate, was a sense of public duty. By coming here, gentlemen are placed in a state of exile, and cut off from all society.

Mr. SMILIE.—I hope, before this bill shall be recommitteed, we shall hear better reasons for it than have been yet adduced. I am sure, if the gentleman from North Carolina will candidly examine the reasoning he has used, he will be convinced there is no force in it. Does he really suppose that we shall ever see a state of society in which we shall be subjected to less expense than at present? As society progresses, so will expenses. But I am against the recommitment for another reason. This is a disagreeable subject to come before this House; and I would wish gentlemen in favor of making a temporary provision, to reflect that we are not now about giving these salaries a Constitutional establishment; that is not in our power; we are no more making them permanent than we have already made permanent the salaries of the President and Vice President, and our own compensations. If this bill passes, it will put the salaries of the officers provided for in it on the same footing with them. It will remain with the Legislature, at any future time, to raise or diminish them according to the circumstance of the country. As to a future diminution of them, I have no idea of it; on the contrary, I believe that men younger than myself, will live to see the time when they will be raised. An opposition to this bill may be considered by some gentlemen as the road to popularity. But this consideration shall never influence me. I believe the only road to popularity is to do what we think right, and what our consciences approve. It has always been a principle with me to have as few officers as possible, and to pay them well for their services.

My colleague (Mr. CLAY) has dropped an idea, that it is the wish of the people that these salaries should be reduced. If it is the wish of the people of his district, I cannot say that it is the wish of

the people of mine. I voted last year for continuing these salaries, and yet my constituents have never blamed me; indeed, I have not heard the subject mentioned by them. I have confidence in the good sense of the people, and I believe that this discontent is not with the people. Have we not good reason to expect that they will be satisfied? Are not the great reductions we have made in the expenses of the Government known to them? Will they not be satisfied with these, and not regard the trifling differences between the amount of the present salaries and the proposed reductions? Mr. S. concluded, by saying that he differed with gentlemen on the expenses of living between this place and Philadelphia, considering the expenses here greater than they were there.

Mr. SKINNER, in reply to the remarks of his colleague, (Mr. HASTINGS,) stated that he was incorrect in his facts. He had stated the price of flour in 1799 at sixteen dollars a barrel. It was not so. It was only nine dollars. From his conversance with the shipping business, he was also justified in stating that beef and pork were now higher than they had been at any time heretofore.

Mr. EUSTIS.—It is well known in the State of Massachusetts that the salaries of the Governor and judges are not competent; and, for the many years that I have had the honor of a seat in the Legislature of that State, I have not known one in which there has not been a temporary grant in addition to the permanent compensations; and during the last year an act passed one branch of the Legislature for their increase. Hitherto, I have been satisfied with a silent vote on the subject, as I have been of opinion that the decision of the question depended upon circumstances on which the judgment of every member was made up, and which, I am sorry to say, have received no light from the long discussion which we have heard. Some gentlemen have gone into a detailed view of the expenses of living. If they had actually gone to market, and judged for themselves, they would have been convinced that these officers receive a bare competence. Let gentlemen look at the state of the country, what it is, and what it is to be. It is said that the present salaries are predicated on war prices. What war? Between France and England? Does not a war between the same nations now exist, and is it not probable that articles of life will rise as high as they were before?

These, however, are small considerations. The true question is, whether men of talents, equal to a discharge of the most important duties under the Government, will devote themselves to the service of their country, and how long, without remuneration? For my part, I acknowledge my surprise, that any gentleman should consider five thousand dollars too much for talents fitted to preside over the destiny of a nation. I am astonished at such an opinion. My own conviction is, that the present salaries are inadequate, and I know that, in some instances, the officers are trenching upon their private fortunes. I am still willing to continue the salaries without augment-

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ation, as they were fixed in 1799. Let gentlemen look at the situation of our officers, and how long they are likely to be employed. In other Governments there is other provision besides salaries. After receiving a liberal compensation, an officer, under other Governments, retires with a pension or a peerage. But what is the fact with regard to the best of our officers, if their services are required till they have reached the age of three score years and ten? If they die, we wear a piece of black crape on our arm in commemoration of their services. If they survive their office, and are able to provide for themselves, it is well; but if they are not able, we make no provision for them. These, sir, are the cheapest services in the world; the salary is all; and they die with it, or by it. Gentlemen will perceive, from its amount, that it is impossible to lay by a farthing for the day of adversity.

As to the motion to limit the existence of the act, it is improper, because, if the war continues, the price of consumable articles will rise; besides that, the depreciation of money will operate a regular augmentation. And though the act be unlimited by itself, yet it will be in the power of the present, or the next, or any other Congress, to take it into consideration and act upon it according to their discretion. The limitation is, therefore, unnecessary, and may be vexatious; for no subject can be touched, so troublesome within doors, and more calculated to excite feeling out of doors.

I was unfortunately absent when my revered colleague made his observations on the amendment I had the honor to introduce. I understand him as being in favor of the principle of the bill, but as meaning to vote against it on account of that amendment. Not having the discriminating judgment of the gentleman, it may be my misfortune not to perceive how this furnishes him with an argument against the whole bill. I was, in the first instance, for re-enacting the act of 1799, in its very words; but, gentlemen not liking that course, the proposition to that effect was negatived, and another proposition agreed to. On this proposition, as its basis, a bill was brought in specifying the salaries given to the several officers. To this bill I offered the amendment now objected to. The gentleman from North Carolina objected to it as unnecessary; but the House overruled the objection, and determined that it should be incorporated in the bill. The House determined that it was proper; but whether it is proper or not will appear from a single consideration. We pass a bill fixing certain salaries; which bill appears, by itself, to be a new act, fixing new salaries, whereas the principle on which it is founded, has been practised upon ever since the year 1799. It appears, then, proper to trace this principle to its first origination. Not that it is my intention to derive a sanction to the measure from the act of 1799, but simply to record a fact undisputed and indisputable, that the salaries are now established as they were in 1799, that every man who reads this law may know it. It is no part of my intention to cast reproaches upon a former Adminis-

tration. I know this is impossible; for, by agreeing to this act, I approve that measure, by giving to these officers the same salaries then given. I mean it simply as a matter of record.

One gentleman from Connecticut, (Mr. GODDARD,) with great facetiousness, proposed the other day that I should make proclamation of this fact. Why, the honorable gentleman, with his usual sagacity, has precisely hit my intention. It is, sir, my intention to make proclamation of this fact, or publication of it, that we may make it appear that this is a continuation of the same act passed by the gentleman and his friends, when they were in power, in the year 1799; and that the honorable gentleman may take it home and show his constituents, by an undisputed declaration on the face of it, that this is the same act with that passed in 1799; and that it may appear that we have done neither more nor less than continue, without augmentation or diminution, the salaries as established by the act of 1799.

Mr. J. CLAY.—I do not intend to trouble the House with any further observations on the general merits of the bill. The gentleman from Massachusetts is the only one who, in my opinion, has adduced any arguments why these salaries should be raised. Under the idea that no answer is required, I intended to give a silent vote against the bill. I wish, by my vote, to oppose it in all its stages to the last. I will not, therefore, by voting for the present motion, with a view to render it less exceptionable, become accessory to any amendments which may ultimately induce others to vote for it. My colleague (Mr. SMILIE) has observed, though my constituents might be hostile to this bill, yet his are not. I congratulate him on the confidence his constituents have in him—a confidence which induced them, in 1799, to agree with him in voting against an increase of these salaries, and which, the last year, made them concur with him in voting for an increase.

Mr. SMILIE explained. He had not, he said, the honor of a seat in that House in the year 1799, when the salaries were raised. He had nothing to do with the business.

Mr. J. CLAY.—I beg my colleague's pardon; I was mistaken. But there are strong reasons to show that the salaries are too high. If I am not mistaken a gentleman, who holds an honorable situation in the Government, did, in the year 1799, vote against the augmentation of these salaries. I know, likewise, that in the place where I live, the people are extremely opposed to this measure. The honorable gentleman from Massachusetts (Mr. EVERTS) has stated reasons for an increase of salaries, which, I trust, will have no weight with this House. He states that, in other countries, public men are rewarded with a peerage and a pension; and that this is the cheapest Government on earth. As long ago as the year 1740, we were told that the trappings of monarchy could furnish out many a commonwealth. I presume, however, the gentleman did not introduce this remark, to infer from it that it was proper for public servants to batten on the spoils of the people. If these are the sentiments of the gentle-

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man, and correct, these salaries, if raised five times as high as they now are, will be infinitely too low.

Mr. EUSTIS.—It is due to myself and to the House, to do away the imputation of the gentleman last up. I never said that these salaries were incompetent, because they were not accompanied with a peerage or a pension. But I predicated their incompetency on the fact that they were barely adequate to defray the necessary expenses of living. I said, secondly, that the compensations were barely such as enabled the Executive to obtain men of talents; and I said, further, that they were lower than those granted by any other Government on earth; because other Governments had other means of remunerating their officers than this Government possesses. This is a fact known to the honorable gentleman and to every man in the nation. It is known that, under monarchies, there is first a splendid establishment provided for the officers while in place, and afterwards other remuneration. No; I do not desire in this country to see either monarchy, peerage, or pensions; and without pretending to any particular knowledge of the sentiments of the gentleman's constituents, I may say that mine are as averse as his can be to anything that wears the appearance of monarchy, and as unwilling to give away a shilling of the public treasure unnecessarily. But I do know, at the same time, that they feel a pride in paying for public services. They know, from fatal experience, from having paid their own officers too low, the necessity of an adequate compensation. In my part of the Union, there exists the same jealousy over the public expenditure; it is salutary, and I rejoice to see it. But, like the liberty of the press, to which we are indebted for the security of our rights, it may be carried too far. We are not able, if the ideas of the gentleman prevail, to ascertain what will be the effects. For, if we suffer a dereliction of the Government by men of talents and virtue, we cannot calculate the evil. It is such an evil that no price can be too great to avert it.

Mr. SANDFORD asked a moment's indulgence. He was opposed to the recommitment, because the object of the gentleman who introduced the motion was to give a limitation to the bill, as though it were not, without such limitation, subject to the control of Congress. The fact was, that Congress could at any time increase or diminish these salaries. Though in favor of them as they at present were, if good reasons should at any time be offered for their diminution, he should vote for a repeal of this act, though he was ready to declare that he did not expect such reasons could be offered. Why, then, limit the bill, when its sole effect would be waste of time in renewing this discussion at a subsequent day? As to the argument derived from lowness of State compensations, Mr. S. said, no comparison could be drawn between the duties of the State and Federal officers. He added that not a murmur of discontent among the people on this point had reached his ears. He was ready, therefore, with the gentleman from Pennsylvania, to vote according to the dictates of his conscience.

Mr. MITCHILL observed, that he had almost laid himself under an injunction to remain silent during the whole of this debate about salaries. But as the subject had not as yet been displayed by any of the gentlemen who had spoken upon it in the manner that it appeared to him most worthy of being stated to the House, he should, before the question was called, briefly offer his sentiments. I am opposed, said Mr. M., to high salaries and extravagant allowances of all sorts to men in office. But I am at the same time desirous that the citizens who are called from private life to stations of eminent honor and confidence, should have a sufficient compensation. A man who harters away the sweets of domestic enjoyment for the toil and envy incidental to most of the offices provided for in the bill, ought to receive from those whom he serves something more than merely his daily bread.

I must own I am not one of those who can, with the calculating powers which some gentlemen possess, exactly adopt the pecuniary reward to these great and responsible offices. I cannot put integrity, talents, and industry, in one scale of the balance, and throw dollars and cents into the other, until it descends to an equipoise. It surpasses my skill to weigh the rare endowments of the head, and the excellent qualities of the heart, which mingle in the character of an officer of State, against the copper, the silver, or even the gold, of which our coin is made. When I attempt to reduce patriotism, honesty, and intelligence, to a price, and to cypher out, by rules of arithmetic, what they are worth in money, I abandon the task as above my powers. And I am not ashamed to confess my inability to appraise the inestimable, I will say incalculable, value of genius, capacity, and virtue, in any denomination of paper current among men. I cannot gauge the human understanding, nor take the dimensions of moral fitness, with such exactness as to satisfy me in giving my vote, that the sums in the bill are exactly what they ought to be, without varying, in any degree, from the true amount of compensation. Employments of high trust and dignity have no tariff or market price to rate them. There is a something in a great and noble mind, that is far above comparison, or equivalent with anything the Mint affords.

But although the task just mentioned surpasses my ability, I do not quit in despair the subject out of which it grows. The problem by which professional men and official men ought to be paid, can be solved only by the aid of political arithmetic; or it can be made to approximate near enough to certainty to answer all the purposes of ordinary conduct. If a boy is destined to a profession, he is an object of expense through the whole course of his scholastic, collegiate, and professional studies. Whether he receives premiums, earns diplomas, or private license to practise, he is a constant drain upon the purse of his father. This expenditure must be made, although under the most favorable circumstances of health, capacity, and diligence, in the pupil. If he is idle, sickly, and perverse, the cost is usually greater.

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Frequently a young man after acquiring a profession cannot gain a living by it, but must be maintained out of other funds than those which the exercise of his profession can raise. Now, in the progress of such a person's life, every dollar laid out upon him is to be considered as so much capital consolidated in his person. This capital is exposed to great risk, and without insurance. For the whole adventure is hazarded upon the life and health of the individual. A young man, therefore, upon whose education five thousand dollars have been expended, ought not only to support himself by the profession he has learned, but to reimburse with interest the capital which has been laid out upon him. This reimbursement ought to take place within the few years to which his life may be calculated to reach—for if he dies, there is a total loss of principal, interest, and prospects. But, in the case of lengthened days, a professional man ought to do more than pay his board and recover his capital in a moderate period of time. He ought to accumulate enough to maintain a family, to pay his assessments, and have a decent surplus for old age, and for descendants. All this a man who has undergone an expensive preparation for a profession ought to be able to do before his activity fails him, by the observance of industry and economy. If he does not do this, he has but a poor bargain of his profession. I believe, Mr. Speaker, that all professions are full of such hard bargains. The lottery of a profession has many blanks to a prize, and the prizes which are within the wheel are for the principal part of but moderate value. Though a few draw rich prizes, by far the majority are allotted blanks, or small prizes. This is so much the case that it has been questioned whether the profession of the law, deemed the most lucrative, upon the great scale actually supports itself. I think, therefore, that the individual practisers may grow very wealthy in a profession, yet professional talents are upon the average not compensated to their full amount in money. The reason is obvious, as man devoting himself to a profession expects honor and reputation from his calling—he courts the smiles of fame, and listens to the echoes of renown; and if he has a mind of that happy constitution which seeks its due proportion of glory, while it provides against want and accidents by an efficient system of ways and means, his reward is rich and ample. It is true he commutes pelf for celebrity; in leaving off a part of the selfishness of his nature, he becomes more a citizen of the world; and though he disposes of less property by his testament, he leaves to his family the precious inheritance of a great and a good name. Generally speaking, then, men who betake themselves to professions run an extraordinary risk for their profits, and these profits, after all, are not received in cash alone, but in a compound ratio of money and fame. It follows from this view of the subject, and it is indisputably the just one, that professional men, as such, receive a smaller return of profit on their professional stock or capital vested in their persons than any other species of adventurers in trade on equal capital and hazard.

Suppose then, sir, a professional man becomes an official character. Does he acquire a "pecuniary" reward equal to the amount that might be found due to him by a calculation on the principles which have been laid down? Certainly not. Speaking in gross, such official men as are contemplated in the bill now depending are not so well paid as professional men are. If the latter are underrated in their compensations, the same *a fortiori* must happen to the former. Take the career of one of these officers about whom there has been so much discussion among us. He possesses little or no chance of obtaining one of these distinguished appointments before the sun of his life has passed its zenith, and he is declining in the afternoon of age. Time must first have furrowed his face with wrinkles, and planted gray hairs on his temples under this preparatory course; and with such preliminary steps for preferment, what chance has the successful competitor to hold his possession long? Though his constitution should remain vigorous; though he should have husbanded his powers by temperance; though, like an evergreen tree, he shall have carried his juvenile verdure far into the winter of years; the incumbent on one of these benefices deceives himself if he calculates upon a protracted tenure. Though he should be favored with health, and have both the will and capacity to perform the duties of his station, he must expect, at the close of every lustrum or sooner, that a harsh decree from the mouth of political expediency will supersede his commission and oust him from his place. In the meantime the constant wear and tear of his animated machinery is going on, and he quits his office with a diminished ability to betake himself once more to the employment he may have relinquished.

It will be perhaps demanded, how the officer is to be made whole under all these casualties? I reply that his worldly reward is partly of an honorary and partly of a pecuniary kind. In some places of eminent trust and delicate responsibility, the virtue which is necessary to their execution is its own reward. Those emotions of laudable ambition which agitate the breast of man, and fill it with the desire of excellence, are in a great degree settled, I may say paid, by the very enjoyment and gratification they afford. The towering distinction, the elevated rank, and the far-sounding title of the statesman, who has reached these grades of promotion, are justly considered as making an essential and important part of what he ought to receive from the public. Nothing can afford the good and faithful servant so much delight as the approbation, the respect, and the confidence of his Sovereign. These are the most tasteful cordials in the cup of life. The accents of commendation and praise are so acceptable, that even the vicious part of public men procure them by venal means to be uttered in their ears. The godlike soul exults when the public voice concurs with the sentiment of self-approbation which it feels. But as men holding offices cannot sustain life by mere applauses, whether real or fictitious, and must be nourished and cher-



ished by substantial fare, like their fellow-citizens, there must be some rule by which the amount of their salaries may be ascertained. I repeat, sir, that Congress should be moderate in all their allowances of this kind; and in order to calculate the amount of wages to be paid to the public servants, the market price of the articles they must purchase should be attended to. An examination of the leading objects of expense will enable a tolerable estimate to be made. The amount of salary should be such, (at least I am willing to consider it so) as to furnish payments for the rent of a decent house; for the food and drink of a middling family; for fuel, and for clothing, in the style of frugal gentility; for the hire of needful domestics; for taxes and other contingencies; for occasional charities, and the encouragement of good works. I would make an allowance for a horse or two, in a city almost destitute of lamps and pavements, to carry the officer from his dwelling, in such a sparse settlement, a mile or two to his place of business. To render him more capable of performing his serious functions, his mind will require seasonable amusement and recreation. He must also provide for the wants and education of his children; and after all these disbursements, he ought to be able, with prudence and economy, to lay up a little surplusage for future use.

If these several articles are charged at the existing rate, they will pretty nearly balance the sums with which it is proposed to pay the officers named in the bill. It may possibly be found, by a very nice scrutiny, that they are one or two dollars higher, or two or three hundred dollars lower than the exact state of the times require. This I am not disposed to investigate with fractional minuteness. The salaries have been proved by several years experience to suit their purposes tolerably well. There is no need whatever to raise them, and I think there would be an impropriety in lowering them at this time.

Before he resumed his seat, Mr. M. said he would offer a few further observations on salaries. In free, and especially in republican Governments, there might be danger of reducing them too low. As a republican, he would concisely advert to the operation of very low salaries upon the country at large. By such a regulation, which might be mistakenly termed by some an economical one, all persons not possessing large hereditary or acquired estates, would be excluded from offices. There would thereby be created a moneyed aristocracy of the most odious and alarming kind. It had been long remarked, that the most stern integrity, and the most useful talents, emerged from the middle or humbler walks of society. He wished that compensations might be such as to promote the evolution of genius and virtue, and bring them from their modest or sequestered abodes into action; and, in this way, well directed talents would continue to rule this land of freedom, as they always had done and of right ought to do. He thought there was a medium between too much and too little, which it was desirable to hit. This was to allow manly merit to come forth, though not attended with the recommenda-

tions of wealth. This was to apportion salaries to services in the way the bill proposed, neither with profusion on the one part, nor parsimony on the other.

Mr. BEDINGER said his only objection was to that part of the bill which prevented an inquiry into the just apportionment of the several salaries allowed. He was in favor of the general principle of the bill, though from the circumstance he had stated, he should be obliged to vote against it.

The question was then taken on recommitting the bill, and lost.

Mr. GODDARD.—I am sensible, Mr. Speaker, that to oppose the passage of a bill, the object of which is to give an increased compensation to men who may be personally respected, is, at any time, an invidious task. Opposition to the passage of the bill now on your table, is rendered peculiarly unpleasant from the severe reprehension which gentlemen meet with, who take the liberty to state their sentiments against its provisions; and, although I think the salaries proposed to be given by this bill are too high, yet I do not know but I should have contented myself with a silent vote on the subject, had it not been for the very singular amendment which, on the motion of an honorable gentleman from Massachusetts, (Mr. EUSTIS,) has been introduced into the bill, and the notice which that and another honorable gentleman (Mr. RANDOLPH) have seen fit to take of the few hasty remarks which, on a former day, I had the honor of submitting to the House. Notwithstanding the remarks which have fallen from gentlemen respecting that amendment, I still think that, with gentlemen at least with whom I have the honor generally to concur in opinion, it may form a solid objection against the passage of the bill, whatever may be their sentiments respecting its general provisions. By the terms of that amendment, the salaries are to be paid to the several officers therein named, "as established by the act of the 2d of March, 1799." Now, sir, for what purpose is this amendment introduced? Not to have any effect upon the bill itself; for it can have no beneficial effect; and the gentleman from Massachusetts (Mr. EUSTIS) has told us that it is not for the purpose of casting any imputation or reproach upon those who passed the act of March, 1799, but simply for the purpose of recording a fact, and promulgating it to the people of the United States. But will the gentleman from Massachusetts permit me to ask whether, if he and his political friends had been in power at the time when the temporary act of March, 1799, passed, this amendment would ever have appeared in the bill? Would there, in that case, have been such solicitude to record this fact? If not, why introduce it now? The gentleman says, to serve as the proclamation which he says I some days past proposed as a substitute for this amendment; and the gentleman is good enough to give me leave to carry it home for the benefit of my constituents in Connecticut.

Another gentleman from Massachusetts (Mr. VARNUM) has added that when the act of 2d of March, 1799, was revived and continued in force

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by the act of the 14th of April, 1802, an attempt was made, and which excited some uneasiness among the people, to prove that those who passed the last act had *raised* the salaries of the Executive officers of the Government; and, sir, let me say that it was successfully done. I do not mean successful in any effect produced by it, but successful in proving the position that the salaries were raised by that act. How stands this matter? At the time when the act of 14th of April, 1802, passed, the Secretaries of State and the Treasury were each entitled, by the law then existing, to receive, as a compensation for their services, the sum of \$3,500 annually, and no more; by virtue of the act of April 14, 1802, they were severally entitled to receive the sum of \$5,000, and yet, by some political legerdmain, gentlemen attempt to prove that they did not raise those salaries! Such also is the case with respect to every other officer named in the bill, and yet this amendment is to proclaim to the people of the United States, that under this Administration salaries are not raised! It is true, that in March, 1799, owing to the high price of living and other circumstances, a temporary act passed increasing the compensation, but for a limited time. It is expressed, in so many words, in that act, that it should continue in force for three years, and no longer. It expired, by its own limitation, on the 31st day of December, 1801, operating only upon the years 1799, 1800, and 1801; and it was a mere dead letter at the time of passing the act of April, 1802. And is it, sir, for the purpose of informing the people of the United States that such an act passed, that this provision is introduced into a permanent law? Who ever denied, and who does not know, that such an act passed at that time? Does the gentleman seriously suppose that the people of this country are so ignorant as not to know this? or that they need information on this subject? But, sir, the amendment purports to record a fact which I do not consider as existing. It holds out the idea that the compensations given by this bill were *established* in 1799. The term, *established*, conveys an idea of permanency, and it is agreed by all, that the act in question was of a temporary nature, and long since expired. If, as a gentleman from Massachusetts (Mr. EUSTIS) has said, the bill under consideration is so perfectly correct and proper, and its provisions so just, as to induce him to express his astonishment that any gentleman should oppose it, why, let me ask, not permit it to stand upon its own intrinsic merit, and not attempt, in this strange manner, to ingraft it upon an act of his predecessors? Why are not gentlemen willing to take upon themselves the responsibility of their own acts? If measures are adopted which are deemed popular, I perceive no indisposition in gentlemen to claim the merit of them. Why, then, let me ask, do they wish, in this manner, to devolve the odium of those which they think otherwise, upon their predecessors? I do not consider myself responsible for all which may have been done by those who have gone before me, and whom I generally respect; and I had hoped, sir, if the quotation does not give offence to certain gentle-

men, that the time might have arrived when it should no longer be said, politically, that the fathers have eaten sour grapes, and the children's teeth are set on edge. If, therefore, gentlemen are determined to persevere in legislating in this manner, I should consider myself perfectly justified in voting against the passage of this bill, whatever might be my sentiments respecting its general provisions.

But, sir, there are other objections in my mind against the passage of this bill, which do not apply to the question, whether the salaries generally are too high or too low.

I took the liberty on a former day to state some objections respecting the salary of the Attorney General, and wish now to make myself understood on that subject, and I hope, sir, that what I may say will not be considered as having allusion to the gentleman who now sustains that office, for I was educated in habits of respect towards him; but I do conceive that error has crept in, and a misconstruction been adopted, respecting the compensation given to that officer; and whether the salary is too high or too low, we are about to sanction that misconstruction, and increase the salary of the Attorney General much more in proportion than we do other officers of Government.

By a law which passed September 23, 1789, the salary of the Attorney General was fixed at \$1,500. By another law passed March 2, 1797, it was increased \$500, making in the whole \$2,000. By another law afterwards passed, an additional annual compensation of \$600 was granted to that officer, for services to be performed under the sixth article of the British Treaty, which was to be allowed him during the continuance of those services. Afterwards and before the Attorney General had ceased to perform services under the British Treaty, and while he was in the reception of the sum of \$600 annually on account of those services, as well as the other sums which I have stated, the act of the 2d of March, 1799, passed, and what, sir, were the terms of that law? "In lieu of the salaries heretofore allowed by law, the following annual compensations are hereby granted," &c., and then giving to the Attorney General the sum of \$3,000. Not, sir, in lieu of the compensation which he was entitled to by any one or two laws, but in lieu of the salary heretofore allowed by law—by any existing law; comprehending, I believe, as well the \$600 for services under the sixth article of the British Treaty, as any or all other sums, to which by law he was entitled; and yet it has been said that the Attorney General has received under all these laws the sum of \$3,600 annually, by what construction I am unable to decide; and now, sir, when the performance of all services under the British Treaty have wholly ceased, we are about to sanction a misconstruction of our laws, and render permanent the salary of the Attorney General at \$3,000.

But, sir, in my opinion, there is very good reason why the salary of that officer should not be high. If he is selected from among professional gentlemen, who resides at the seat of Government

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it will be only paying him for some opinions which will not much interfere with his other business. If a gentleman is called from distant parts of the Union, a man of talents and high respectability will probably be selected. He will come to the seat of Government under very favorable circumstances; the office will increase his reputation. The sessions of the Supreme Court of the United States will always be held here. Causes of the first magnitude, from all parts of the Union, and which will of course afford the largest fees, will there be litigated. The Attorney General we may suppose will be the first person applied to, and the office, in that way, will furnish him with much greater compensation than any other officers are entitled to.

But, Mr. Speaker, I have another objection to the passage of the bill on your table, of a special nature, and not relating to the question whether the salaries are too high, or too low.

By this bill, the sum of \$5,000 is proposed to be given to the Secretary of the Treasury. In all that has been said on the subject of the comparative prices of provision, and the expenses of living in Philadelphia in the year 1799, and this place, at the present time, no gentlemen say that they are greater now than at that time. Some gentlemen undertake to prove that they are not as great.

By a recurrence to the Journal of this House, at the time when the temporary act of 1799 passed, annexing for a limited time, to that office, the same salary which is now proposed to be given, I find the name of the gentleman who now holds that office, and who was then a distinguished member of this House, recorded against the passage of that law. He thereby has declared to the world, that the sum now proposed to be given, is too great for the performance of the duties of that office. This is the best evidence in the present case. Was not that gentleman a competent judge? If he was, shall we give to a public officer a greater sum of money than he himself thinks his services are worth? He cannot in conscience receive a greater salary than that fixed by the law of 1799. And if we persevere in passing this bill, we shall place that officer in a very delicate situation; we shall compel him to take a greater compensation for his services than he believes they merit.

I find also, on examining the same Journal, that more than twenty gentlemen, who were members of this House in 1799, when the act so often referred to passed, and who voted against its passage, are now members of this House, and not one of them, I believe, on any of the questions which have been taken, respecting this bill, have voted against it. Some of them have spoken in its favor. Gentlemen may be consistent in doing this, and I dare say they have reasons which, in their own mind, justify their votes; what they are, is not for me to inquire. One gentleman from Massachusetts, (Mr. SKINNER,) who voted against that bill, has indeed told us, that if gentlemen should change some of their opinions once in the course of five years, he does not think it exposes them to the charge of inconsistency. I can

certainly have no objection to gentlemen's acknowledging that they were formerly in an error, and I am very willing that the work of reformation should progress, and that gentlemen should correct other errors which they then entertained.

Having made these remarks, I might content myself to vote against this bill, finding it liable to the several objections I have stated. But, sir, I ask the patience of the House, while I submit a few remarks upon its general provisions.

I have listened with much attention to the arguments of an honorable gentleman from New York, (Mr. S. MITCHILL) on this subject. The first part of his remarks went to prove, that the pecuniary compensation generally given to professional men is very inadequate to their services. This argument, as a gentleman from Virginia (Mr. RANDOLPH) saw fit to observe, respecting that of an honorable and very respectable member from Massachusetts, (Mr. TAGGART,) I should be glad to have printed, not so much for the use of members of this House, as for the benefit of a certain class of people, called clients. But the gentleman from New York adds, that professional men take a part of their compensation in money, and a part in fame. Of this latter article, that gentleman has received a large share, and I do not know but he has, also, of the former. But he has proceeded to show, by a course of ingenious reasoning, that high salaries are necessary to be given to support a Republican Government. A few years ago, arguments in abundance were used, to prove that low salaries were essentially necessary, to support a Republican Government.

I speak not of any used by the gentleman from New York, for I do not know what were his sentiments formerly. But it now seems very easy to prove that high salaries are necessary to be given, to call men from the lower and middle walks of life, and induce them to aspire to your first offices. [Here Mr. MITCHILL rose and said, that he had not contended that high salaries were necessary for this purpose.] Mr. G. proceeded: High and low are relative terms; I am sensible the gentleman advocates only the salaries to be given by the bill on your table. That gentleman may call them low, I call them high, and considering them as high, I say, that it is now easy to prove, that high salaries are necessary to be given to support republicanism; and I do not know to what extent they may not ultimately be raised, to do this. In the French Republic, many millions of livres annually are not thought too high to be given to the First Consul, to support his Republican Government, and I know not how soon similar provisions may be thought necessary, to support her sister Republic, in America. A compensation has certainly been given there, sufficient to call, from the middle walks of life, a Corsican soldier, to support by his talents that Republic. And we have the more reason to fear that similar inducement will be held out here, as, according to the remarks of the gentleman from Virginia, (Mr. R.) on a former day, nothing is consistent but keeping salaries in the ascending series; for the gentleman seemed to suppose that gentlemen who form-

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erly voted against the present salaries, might now very consistently vote for them; but that those who formerly voted for them, would now act very inconsistently to vote against them. And to what extent this sort of consistency is to be carried, I do not know, but we may conjecture from the opinion which has been here expressed, of the almost incalculable value of the services of some officers, and their claim upon the public gratitude.

But permit me, sir, to state my view of this subject generally. I am perfectly content to give to the officers of Government a reasonable and just compensation for the services which they render. It is difficult to determine the abstract question, what that is. In my opinion we ought not to consider it in an abstract point of view, but relatively only. It ought to be adapted to the nature, genius, and situation of Government. We are in our youth, and the compensation to be given to the officers to be provided for by this bill ought to bear some proportion to those given to the other officers of our Government. Compare, sir, a salary of five thousand dollars, now proposed to be annexed to the offices of Secretary of State and the Treasury, to the salaries given to the officers of your State governments. Do the States give to their Governors, their Judges, or any of their highest officers, a sum to be compared to this? I cannot answer for them all, but I believe there is not existing, under any of the State governments, a permanent salary of this magnitude. In some of them, I know, they fall far short of this sum. And are not those offices filled by men of the first talents? It will not be doubted.

But, if gentlemen do not like this comparison, let me ask them to compare these salaries with others under the General Government. Look at the salaries which you give to the judges of your Supreme Court. These were established in the year 1789, and have remained unaltered. And I have seen no attempt made to increase them. The salary given to your Chief Justice is \$4,000; and that to the other justices \$3,500 each. Will any gentleman tell me that these offices ought not to be filled with men of pre-eminent talents?

And are not the duties of their offices very laborious? Aside from their duties in court they are obliged to travel from one end of the United States to the other—deprived of those domestic comforts of which gentlemen have justly spoken so highly, and not only exposed to much bodily and mental fatigue, but subjected to heavy expenses in their travels. And yet gentlemen seem perfectly contented to suffer their salaries to remain as they are, and will give to the officers of the Executive departments, who reside constantly with their families at the seat of Government, a compensation much beyond theirs! Let gentlemen pursue the comparison further, if they please, and inquire what sums are given to the district judges, and, indeed, any other officers of Government, and they will find that they all fall short—very far short—of the compensations proposed to be given by this bill. Gentlemen have mentioned our own compensation, as members of this House, and, in doing it, the gentleman from Kentucky,

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(Mr. SANDFORD.) and also the gentleman from Virginia, (Mr. RANDOLPH) seem disposed to descend into the vale of humility, when comparing their own talents and services, as members of this House, with those of some of the officers for whom we are providing. I am content to go along with them, and have no disposition to compare my talents or services with theirs. Yet, let me say, sir, that it is essentially necessary that these seats should be filled with men of the first talents. For, unless your legislators are qualified to judge of the measures proposed to them by the Executive department of the Government, they will become the humble tools of the Executive, will only echo his will, and become the registers of his edicts.

There is, therefore, the same necessity, of which gentlemen have so often spoken, of giving such compensation as will call forth the services of the first men to act in a Legislative capacity. And what do you give your Senators and Representatives? The annual sum of eight hundred and ten dollars! I know very well that a gentleman from Kentucky, (Mr. SANDFORD,) on a former day, made this compensation amount to more than two thousand dollars annually. Upon what principles he calculated, I cannot conceive. I take as the basis of calculation the estimate laid on our tables from the Treasury Department for the service of the year 1804. That calculation is made upon the supposition that Congress will be in session four and a half months, or one hundred and thirty-five days in a year. This amounts to the sum of eight hundred and ten dollars only. I am sensible that there is an addition for the expenses of travelling to and from the seat of Government; but that is supposed to be given on account of those expenses. Whether the gentleman from Kentucky made his calculation by including travelling compensation, for I do not know at what distance he lives from this place, or by computing on a session for the whole year, I do not know, but I presume the latter.

Any gentleman who has been a member of this House knows, that attendance here, necessarily deranges, for the year, any other business in which he may be engaged. Now, sir, I do not complain that our compensation is not high enough. No difficulty is found in inducing gentlemen to accept seats here; but the point which I attempt to prove is, that the salaries contained in this bill are too high. Compare the sum of eight hundred and ten dollars, our annual compensation, with the sum of five thousand dollars, to be given to some of your officers, by this bill, and who will say it is not too much? In examining all the subordinate offices under this Government, none will be found to furnish salaries which compare at all to those in the bill on your table, excepting those mentioned by a gentleman from Virginia, (Mr. RANDOLPH,) on a former day. I refer to the collectorship of certain ports. I am sensible we have a law by which it is declared that collectors' compensation shall not exceed \$5,000.

But, let it be remembered, that we do not give to those officers a salary, but a per centage upon

the business which they do, and something is doubtless allowed as a premium for the risk of receiving and paying over large sums of money; yet, while I give this answer to that case, stated by the gentleman from Virginia, (Mr. R.,) I wish not to be understood to say that the compensations given to some of those officers are not too high. I believe they are, and if the gentleman pleases, I am ready to join him in this reduction. For, sir, there are officers, and some in the State from which I come, who, a few years ago, could declaim against high salaries, declare that compensations were too high, when they were much less than they are now, and make orations to publish it to the world, and assert that five hundred or one thousand dollars, at most, was an abundant compensation for the performance of the duties of offices, from which some of those very men now pocket, with much complacency, between three and four thousand dollars a year.

[Here Mr. NICHOLSON called Mr. G. to order, which occasioned some remarks from Mr. NICHOLSON and Mr. LOWNDES; when the SPEAKER declared Mr. G. to be in order. He again rose and said, although he had been so happy as to have a decision from the Chair, that he was in order, yet the intimation from the gentleman (Mr. N.) had given him time to repress a warmth which sometimes attended him in debate, and, but for this interruption, might have led him away from the question under immediate discussion. He would endeavor not to make any more remarks which should give the gentleman uneasiness.]

I have no disposition, said Mr. G., to proceed further with a comparison of the salaries contained in the bill on your table, and those of any other officers of your Government.

But, on a former day, our attention was called first from the subject immediately before us to the contingent expenses of this House, of the War and Navy Departments, as well as to the general expenditures belonging to those departments, and we were told that here were the great sinks of the public money, and here we ought to turn our attention if we wished to make retrenchments in our expenses. Why, sir, is this done? Did the gentleman from Virginia mean to say that the expenses, to which he has referred us, are improper and extravagant? If so, let us correct the abuse; if not, why call our attention to the subject at all? If improper expenditures are made from the contingent funds, or in anything connected with the departments referred to, retrench them. But surely this can furnish no reason why we should give extravagant salaries by this bill. If the expenses there are no greater than they should be, unless this subject is only brought into view to show us that, of necessity, we must expend large sums there; it furnishes another reason why we should exercise economy here, that we may be better enabled to meet the necessary expenditures there.

But, the gentleman says, this is but the saving of a barley-corn, and ought not to be regarded.

[Here Mr. RANDOLPH rose, and said he did not say so.]

Mr. GODDARD.—Pepper-corn, sir, I believe, was the gentleman's expression, and perhaps it is a more proper word for him to use. But the word is immaterial, and the sentiment, I think, is incorrect.

Let us now exercise our best judgment on the subject now before us, and see to it that we authorize no improper expense by this bill; and, as other subjects may be presented us, conduct in the same manner as to them. I should be perfectly content to give just and reasonable salaries to all public officers, and those contained in the old permanent law may be too low. But, I cannot be induced to vote for the sums contained in this bill, through fear of not being able to call into exercise the talents of the best men in the nation. I have heard this argument used here and elsewhere in favor of high salaries; but is it not, let me ask, an argument founded on theory and not on experience? It is the least of the difficulties which the Government has to encounter, that of inducing men to accept its offices; and when we shall find, from experience, that suitable men will not accept our offices, on account of the small compensation annexed to them, it may be time to apply the remedy now proposed, and raise their salaries. For a period of ten years, from the commencement of the Government until the year 1799, men of the first talents and integrity were found to fill the offices now in question for the salaries contained in the old law, which this will repeal; and when the men in power shall have evinced their patriotism by a like period of service for the like compensation, it may be time to increase it.

But, at present, the bill on your table being liable to the several objections which I have stated, and the salaries therein given being comparatively higher than other salaries enjoyed under the General or State governments, I shall give my vote against its passage.

Mr. J. RANDOLPH.—I am sensible, with every gentleman who has spoken on this subject, that it is one, on which every member has made up his mind. But as the gentlemen have, in discussing it, gone into other questions, and have misrepresented what has fallen from the friends of the bill, I must beg the attention of the House for a few minutes.

The gentleman from Connecticut (Mr. GODDARD) has stated—and I hope the Chair and not the gentleman will correct me in case I misrepresent what has fallen from him—for I must be permitted to say that the manner in which you, sir, have uniformly executed its duties give an ample pledge that I shall be corrected if I do misrepresent him; the gentleman has stated that the amendment, introduced into the bill, is contradicted by fact. The first section of the bill is in these words: "That, from and after the end of the present year, the following annual compensations and no other be, and they are hereby, granted to the officers herein enumerated, respectively, that is to say." The whole question then is, whether the same salaries are established by this bill as were established by that act. The act has been repeatedly read, or I should call on the Clerk to read it now

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to prove that the compensations allowed by it are precisely those of the bill under consideration. But, says the gentleman, these salaries were not established by that act, because it was limited to a term of years. The gentleman may give the word "established" any meaning he pleases; but it is not for him to make this House give it a meaning which they are persuaded it does not bear. Let me ask him if the phrase "established for two years," may not be used with strict propriety? Has he never heard of temporary and permanent establishments—of War and Peace Establishments; and is there not an almost annual fluctuation in their extent and amount? I desire then to know whether it becomes him, under these circumstances, to declare that the amendment adopted by this House (to use his own words) purports that to be a fact which is not a fact.

The same gentleman has undertaken to show that, in the observations which I offered on Friday on this subject, I endeavored to prove that abuses existed in other departments, and that those abuses ought to sanctify these. On this occasion, I beg leave to call the attention of the House to the fact, and I have no hesitation to say that the fact is not so. If I did say what the gentleman represents, I beg the correction of the Chair. I stated that in the Treasury Department, the expenses were equal to \$70,000, and that of this sum the salaries did not amount to \$30,000; that if it was the object of the House to effect a reform, they ought to take up the departments themselves, and not to strike barely at the salary of the principals. I repeat it, if gentlemen mean reform, let them reform the department itself. But let us not gain less than \$10,000, by only striking at the salaries of a few officers, whose responsibility and capacity entitle them to superior compensation. I did state, not that these departments, but those of the military and marine were the great sinks of the treasure of every nation. What does the gentleman make me say? Why that our own departments of the military and marine were the great sinks. Sir, I stated no such thing; I believe no such thing. By making particular a general assertion, my meaning has been totally perverted. I can scarcely conceive how any military or naval force can be maintained for less cost than our own—although I am ready to repeat that such establishments are the sinks of national treasure. The assertion is sustained by the expense which we pay even for our small army and navy.

I will again call the attention of the House to the estimates laid on our tables. The expenses of the Department of State, exclusive of those of foreign intercourse, amount to \$22,000. The gentleman is for striking at a single salary. I am unwilling to do this. I am for going through the whole Department if any reduction is commenced. In the Treasury Department the expenses are \$70,000. Pursue the ideas of some gentlemen, and there will be a saving in the salary of the Secretary of \$1,500, of the Comptroller \$850, of the Treasurer 600, of the Auditor \$600, of the Register \$400, something less than \$4,000; and that is all. In the War Department the expenses amount to

\$28,000. If the salaries of the Secretary and Accountant are reduced as is proposed, there would be a retrenchment of \$1900, and this would be the amount of the saving. But the gentlemen have not ventured to propose the general reduction of the War establishment, which costs the nation (even now) the annual sum of \$363,000. A saving to the same amount would, by a like reduction, be made in the Navy Department, whose expenses, under the most economical arrangements which have been made under this Government, amount at present to \$650,000, which have exceeded heretofore \$1,000,000, and in times not very remote several millions. I find the expenses of the Judiciary estimated at \$98,000, and a saving is proposed to be made by retrenching \$600 from the salary of a single officer, the Attorney General. I have no desire to diminish the salaries of any officers in this department, in which there appears to me to be an economical disbursement of the public money. When I speak, however, of the economy of the department, I mean not to refer to that portion of expenditure which is made in the District wherein we are now deliberating; for I find that the estimate "for defraying the expenses of the supreme, circuit and district courts of the United States, including the District of Columbia, also for jurors and witnesses in aid of the funds arising from fines, forfeitures, and penalties, incurred in the year 1804, and preceding years, and likewise for defraying the expenses of prosecution for offences against the United States and for the safe-keeping of prisoners," amounts to \$40,000.

I did on Friday express myself, that if gentlemen were seriously bent on retrenchments, they ought to take up the departments generally; particularly the marine and military; and, after reforming them, take up the civil list; thus revising the expenses of a whole department, and not striking at the salary of individual officers. I did say that to make a saving of not quite \$10,000, in this way, out of an expenditure of millions, was to bring a mere pepper-corn into the exchequer. The term was used on a most memorable occasion, and by an ever to be venerated man. It was used by Lord Chatham, on the project to tax this country. It was then declared by that illustrious statesman, that all the revenue which could be wrung from this country would be but a poor equivalent compared with the services we had rendered, and should render Great Britain as allies, as customers, and as friends, and the miserable financier was denounced who would bring a pepper-corn into the exchequer at the expense of millions to the nation. And I now say, that the saving of \$10,000, out of the salaries of officers, who ought to be the ablest men in the world, on whose talents and virtue depends the peace and welfare of the country, and the honest expenditure of millions, would be to bring a pepper-corn into the exchequer.

The gentleman from Connecticut, (Mr. GODDARD,) in the course of his observations, has expressed a hope that the advice which my learned friend from New York (Mr. MITCHELL) had given to the House would be taken by his clients.

If I could arrogate to myself the right of giving

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advice to any member of this House I would recommend to their patron one rule, a rigid adherence to which will always keep up the appearance of saying something on a subject. Whenever you are unable to answer your adversary, always answer yourself. Having only yourself to answer, you insure one important point—the being equal to a reply.

This remark applies with peculiar force to the statement which has been made of what has fallen from my friend from Massachusetts, (Mr. EUSTIS,) not one of whose arguments the gentleman has answered, though he has misrepresented them all. Mr. R. concluded by observing that he wished a mode could be devised of bringing members back to the subject under consideration, and by which also a gross misrepresentation would receive a proper correction.

The question was then taken by yeas and nays, on the passage of the bill—yeas 76, nays 35, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Clifton Claggett, Thomas Claiborne, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Daniel Heister, James Holland, David Holmes, Benjamin Huger, Walter Jones, Nehemiah Knight, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, Samuel L. Mitchell, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Oliver Phelps, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sanford, Ebenezer Seaver, Thompson J. Skinner, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, Samuel Tenney, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Matthew Walton, John Whitehill, Richard Winn, Thomas Wynns.

NAYS—George Michael Bedinger, Phanuel Bishop, William Chamberlin, Martin Chittenden, Joseph Clay, John Davenport, Thomas Dwight, John B. Earle, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Seth Hastings, Joseph Heister, David Hough, William Kennedy, Michael Leib, Joseph Lewis, jun., Thomas Lewis, David Meriwether, Nahum Mitchell, Thomas Moore, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, John Cotton Smith, Richard Stanford William Stedman, James Stephenson, John Stewart, Samuel Taggart, Benjamin Tallmadge, George Tibbits, Marmaduke Williams, Joseph Winston.

TUESDAY, November 22.

Two petitions of sundry residents and purchasers of lands in the State of Ohio, were presented to the House and read, respectively submitting to the consideration of Congress, certain propositions of amendment to the existing laws relative to the sale of the lands of the United States, lying within

the said State, which they pray may be adopted, as well to enable the industrious residents or emigrants to purchase a quantity of land proportionate to their capital, as to promote the general interests of the Union.

*Ordered*, That the said petitions be severally referred to Mr. NICHOLSON, Mr. MORROW, Mr. DWIGHT, Mr. BROWN, and Mr. BRYAN; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

## BANKRUPT LAW.

Mr. NEWTON called for the order of the day on a resolution, laid by him on the table, for repealing the Bankrupt law.

Mr. J. CLAY moved a postponement till the 2d of February 1804, in order to allow, in the mean time, an opportunity to inquire into the practicability of so amending the law as to render its provisions just, and agreeable to the community.

This motion was supported by Messrs. J. CLAY, NICHOLSON and GREGG, and opposed by Messrs. NEWTON, ELLIOT, SMILIE and EUSTIS.

Mr. GRISWOLD suggested the propriety of postponing the consideration of the subject to a shorter day. Mr. J. CLAY acquiesced.

Mr. NICHOLSON moved a postponement to the first Monday of January.

This motion was supported by Messrs. HUGER, DANA, ALSTON and GODDARD; and opposed by Messrs. NEWTON, DAWSON, RODNEY, SMILIE, and RANDOLPH.

When the question on postponement was taken, and lost—yeas 19.

The House then went into a Committee of the Whole on Mr. NEWTON's resolution for repealing the Bankrupt law.

Mr. NEWTON and Mr. SMILIE advocated a repeal, and Mr. JACKSON and Mr. EARLY opposed it; when the Committee rose and asked leave to sit again.

WEDNESDAY, November 23.

*Resolved*, That the Committee of Claims be directed to inquire into the expediency or inexpediency of making provisions, by law, for all those officers and soldiers who were disabled by wounds in the Revolutionary army, and for whom no provision has heretofore been made by law; and report by bill, or otherwise.

## BANKRUPT LAW.

The House resolved itself into a Committee of the Whole, on the resolution, offered by Mr. NEWTON, for repealing the Bankrupt law.

The resolution was advocated by Messrs. NEWTON, ELLIOT, SMILIE, HASTINGS, STANFORD, and RANDOLPH; and opposed by Messrs. JACKSON, EARLY, SKINNER, and EUSTIS.

[The advocates of repeal observed that though the resolution had laid on the table for a considerable time, purposely with a view to collect public opinion, no remonstrance hostile to it had been received from any part of the Union, and that this circumstance indicated the unfavorable sentiment entertained of the bankrupt system; and that



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even among those most materially interested in its provisions, a dead silence prevailed. Some gentlemen were averse to the repeal, inasmuch as the law would expire by its own limitation, in a few years; but the House should recollect that in the mean time they were responsible for all its evils and iniquities. If, too, it should be suffered to die a natural death, the inevitable effect would be that those who are now struggling to avoid bankruptcy will precipitate themselves into such a situation as to avail themselves of its benefit.

With regard to the principle of the present bankrupt system, and probably of any other bankrupt system that could be devised, it was unjust, inasmuch as it favored one class of citizens, the merchants, at the expense of all other classes; to advance the interest of the first it sacrificed the interests of all the other members of the community. To prove this, it was only necessary to illustrate it by the common case of a merchant availing himself of the benefits of bankruptcy, and thereby cancelling the demands of the mechanic or the farmer who might be his creditor; and of the same individual mechanic or farmer, the debtors of another merchant, remaining his debtor with their property subject at any period of their life to his seizure. In the case of the insolvent merchant his debts were totally discharged; whereas in the case of the insolvent mechanic and farmer, they were of eternal obligation. The preferable system was that established by the several States, which existed before the bankrupt system, and which still existed, extending to all insolvent debtors the same relief.

It was contended that the partial operation of the bankrupt system had the most mischievous influence on the morals of the mercantile world. That it operated as an impunity to fraud and negligence; that it created extensive credits, and excited a spirit of the most prodigal expenditure; that although the American merchants were probably the most honest, and certainly the most able and enterprising in the world, the facility with which credits were obtained, and the impunity with which risks were incurred, had, under the auspices of this law, introduced into their private expenditures a ruinous extravagance; and that nothing was more common than to see a merchant, of but small capital, living at an expense superior to that of the European trader who had realized his plum, and at an expense which shamed the frugal disbursements of the affluent planter. What were the effects? The scene of luxury and splendor was enjoyed for a few years, and was succeeded by a failure. Did it become the Legislature to encourage, or repress this spirit?

The principle of the bankrupt system was inequitable as it regarded the relation of debtor and creditor. However it might be averred to the contrary, it was a truth that its provisions operated to the advantage of the debtor, and of course to the detriment of the creditor. There was no weight in the remark that the commission was taken out at the instance of the creditor, as that was merely a nominal act, a creditor usually being made use of who was the friend of the bank-

rupt. That it operated to the benefit of the debtor was clear from its liberating all his future acquisitions, after availing himself of the benefit of a commission, from seizure: whereas under an insolvent law the person alone was released. That hence sprang up a ten-fold temptation to fraud under this act, over that which existed under the common insolvent laws. For that under the latter an insolvent debtor, if guilty of a fraudulent concealment of property, could at any future period be called upon to satisfy the claims of his creditors by a delivery of his visible property; while, under this law, the bankrupt may live in the greatest splendor, even ostentatiously displaying his property, without rendering it liable to seizure. Fraud once successfully perpetrated and concealed, every restraint is removed; and so deleterious had this effect been that it had manifestly inflicted a deep wound upon the confidence of man with man in the ordinary transactions of life.

It was further contended, that while justice and humanity dictated the liberation from arrest of the body of the unfortunate debtor, justice inhibited the exoneration of property from going to satisfy just debts; that the obligation, wherever the ability existed to pay just debts, was eternal, and that this law, in having a retro-active effect, was unjust. Evils infinitely greater had been inflicted by inconsiderate and fraudulent debtors taking refuge in the provisions of the bankrupt law than from all the inhumanity exercised by merciless creditors over unfortunate debtors. That the principle of the bankrupt law was also retro-active, inasmuch as it destroyed the grade of dignity existing in many of the States, by which a bonded debt obtained a preference over an open account; that it absolutely impaired the subsisting contract between the person holding and the person signing the bond.

It was remarked that the principle of the bankrupt law, however good in theory, could never be carried into effect, as had been proved by a long course of British experience, without a recurrence to those sanguinary laws which they had introduced for the prevention and punishment of fraud, but which were so abhorrent to our code of laws that public opinion could not tolerate them.

The expenses of going through the forms of bankruptcy constituted no inconsiderable objection to the system. The appointment of a Commissioner was understood to be in no small degree lucrative, and the various processes through which the bankrupt was compelled to go, in practice, reduced the little property he had left to a state still less. Indeed, from the practical effects of the system, it would appear that it had been made more for the emolument of the Commissioner than for the benefit of the creditor.

However necessary this system might be in England, who owed almost the whole of her prosperity to trade, it became not a nation, the leading feature of whose character was agriculture, to tread in her footsteps; but, on the contrary, to avert rather than to hasten the period when such a system would be rendered necessary; that, in

truth, the spirit of trade in this country was sufficiently vigorous, and only required the common protection given to all other occupations, to prosper to every beneficial purpose.

In the commercial world, the honest, though unfortunate merchant, had nothing to fear from his creditors. A long experience had shown that the mercantile world felt with sympathy and acted with magnanimity to the unfortunate. In addition to these objections, it was urged that the bankrupt law was injurious, as it enlarged the sphere of the Federal courts. The Constitution was a system of compromise. Many powers were given without a view to their immediate exercise. It did not, therefore, follow that, because the power given to establish an uniform system of bankruptcy was given, it must now be exercised. The powers of the General Government, if not too great, were sufficiently great. It became Congress, therefore, neither to take from or add to the powers of the State courts. To increase the powers of the Federal courts, through the operation of the bankrupt system, was to derogate from the powers of the State courts. The State tribunals were weak enough, without thus trenching upon them.

The authorities under this law not only went to enlarge the powers of the Federal Government generally, but particularly to the extension of Executive power. The appointment of Commissioners of bankruptcy was an additional weight thrown into the scale of Executive patronage. The power of that Department ought to be viewed with an eye of jealousy, and the House, however willing to allow to it the enjoyment of all fair and necessary power, ought vigilantly to guard against its undue increase. It might be answered that this evil might be removed by placing the appointment of the Commissioners in the hands of the courts. But this would not be the effect. The Judicial department, in the aspect of its political weight, was not to be contemned. So long as it remains, as fixed by the Constitution, it will rest for support somewhere—it will naturally ally itself to some other department of the Government, and the inducements to such alliance will be most naturally held out by the Executive; but however peculiar circumstances might at this time indicate otherwise, such a tendency was a kind of political gravity, which, however it might for a time be checked, would eventually exert its influence.

On the other hand, the opponents of the repeal observed that the silence of the public on the subject indicated neither hostility nor opposition to the present system of bankruptcy; if it indicated any prevailing sentiment, it was that of confidence in the judgment of their representatives. If the system really was so unpopular as some gentlemen had represented it to be, their tables would ere this have been covered with memorials for its repeal, whereas not a single petition to that effect had been presented during the session.

They contended that it would be true policy to suffer the act to expire by its own limitation. Little more than two years would elapse before the

arrival of that period. This conduct was dictated by the undisputed fact that the present system had been adopted as an experiment. Hence the limitation of the act. This experiment was now in a fair course of trial. Little more than three years had elapsed since its commencement, and sufficient time had not yet passed to test the goodness or the badness of the principle it involved. It was a fact that the distresses of the commercial world called forth such a system when it was formed in the year 1800; it was a fact that it had done much good; and it might be that a system of bankruptcy, improved to the extent of which it was susceptible, would be of permanent utility. Amendments, radical amendments, the system certainly required; and should the House determine not to destroy it, the amendments could and doubtless would be made.

It was believed that the general sentiment of the nation concurred in the propriety of affording some relief to the distresses of the commercial world. On the form and extent of that relief great contrariety of opinion existed. It was the opinion of well informed merchants and of the best writers, that a greater relief should be afforded to the misfortunes of men engaged in trade than in other occupations. To the argument that the proper relief to be extended should be left to the determination of the States, the objection, that the laws of the different States were on this point various and contradictory, was conclusive. Trade, of all human occupations, embraced the widest range. Its operations were confined to no particular State, or climate, but pervaded the whole world. It was of great importance then, if practicable, that laws in relation to it should be equally wide with this extensive range. Though this was utterly impracticable, yet it was practicable to make the same laws pervade a whole nation. Of this opinion were the venerable patriots of 1789, who framed the Constitution; such was the spirit of the Constitution itself; and such its language in speaking of uniform laws respecting imports, bankruptcies, and intercourse between the several States. Not that the power to pass such laws was imperative: but they manifested the sense of that body and the spirit of the instrument, that all laws on those subjects should be uniform throughout the United States.

To the argument, that the exoneration of property from the payment of just debts was a violation of justice, it was replied, that however correct the principle might be in ordinary cases, it did not hold in commercial concerns. In other employments an inability to comply with contracts was generally the result of idleness or imprudence; but so great and inevitable were the risks attendant on commerce, that no human prudence could guard against them.

Of trade, credit was the life; without it, it could not exist. In this country, too, it was the great source of revenue. How politic then was it, in a country where the whole of the revenue, and much of the wealth of its citizens, depended upon trade, to adopt regulations which would repress mercantile exertion and enterprise?

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It was contended, that it was not true that the principle of a bankrupt law operated in favor of the debtor; the reverse was the case, and constituted one of the strongest arguments of its superiority to insolvent laws, under which the time of surrender was left to the option of the debtor, whereas, under a bankrupt law, the creditor, whenever he had reason to apprehend the fraud or failure of his debtor, could take out a commission under the bankrupt law; the creditor may arrest the prodigal or unjust career of the debtor; while under the insolvent law, the debtor rarely surrenders his property, until he has squandered nearly the whole, or until he has made a fraudulent transfer of it. Such was the operation of the principle of a good bankrupt system; with regard to the present it was admitted that its provisions were unfair, and operated frequently the other way.

A leading argument in favor of a bankrupt system was that it multiplied checks against fraud; there would of course be less temptation to commit fraud, as the chances of concealing it diminished. In most countries the terrors of an awful punishment awaited the commission of fraud under this act, even the terrors of death. Though it might not be sound policy in this country to make punishments so terrible, yet it was always within the power of the Legislature to make transgressions so penal, as to guard against the apprehended evils.

It was contended that one great object of the Constitution in bestowing this power on the General Government was the establishment of national credit upon the broad principles of justice; such was the effect of the system of bankruptcy by which the same obligations were imposed upon the merchants of all the States in their relation to each other, and towards foreigners. Remove this system, and you virtually re-enact the partial and varying laws of the different States. In Virginia, for instance, the person only of the debtor is liberated, while in Maryland both person and property are liberated. Will not the citizen of one State acquire advantages over the citizen of another, and will not foreigners have reference in their dealings to the laws of the States, and prefer dealing with the citizens of that State where there shall exist the greatest security for the recovery of their debts? Will not the citizen of one State remove into another, and evade the operation of the laws of the State where contracts were made? The friends of the repeal say the bankrupt system is retrospective in its operation. That was true, inasmuch as it changed the relations of debtor and creditor. But what will the repeal do? Contracts have been made under the contemplated existence of the act for a fixed period. By repealing it before that period arrives, you likewise change again the relations of debtor and creditor.]

About four o'clock, the debate being closed, the question on the resolution to repeal, was taken and carried in the affirmative, ayes 94.

The Committee rose, and the House immediately took up their report, on agreeing to which the yeas and nays were required, and were, yeas 99, nays 13, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George M. Bedinger, Silas Betton, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Thomas Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, James Elliot, John W. Eppes, William Findley, John Fowler, James Gillespie, Calvin Goddard, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Seth Hastings, Joseph Heister, William Hoge, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., John B. C. Lucas, Andrew McCord, David Meriwether, Nahum Mitchell, Thomas Moore, Jeremiah Morrow, Anthony New, Thoms Newton, jun., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jun., John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John C. Smith, John Smith of Virginia, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—John Campbell, Joseph Clay, Peter Early, William Eustis, Daniel Heister, Benjamin Huger, John G. Jackson, Thomas Lowndes, William McCreery, Nicholas R. Moore, Joseph H. Nicholson, Tompson J. Skinner, John Smith of New York.

*Ordered,* That a bill or bills be brought in, pursuant to the said resolution; and that Mr. NEWTON, Mr. HAMMOND, Mr. TALLMADGE, Mr. VAN CORTLANDT, and Mr. MARMADUKE WILLIAMS, do prepare and bring in the same.

THURSDAY, November 24.

A Message was received from the PRESIDENT OF THE UNITED STATES, as follows:

*To the House of Representatives of the United States:*

In conformity with the desire expressed in the resolution of the House of Representatives, of the fifteenth instant, I now lay before them copies of such documents as are in possession of the Executive, relative to the arrest and confinement of Zachariah Cox, by officers in the service of the United States, in the year one thousand seven hundred and ninety-eight. From the nature of the transaction, some documents relative to it might have been expected from the War Office; but, if any ever existed there, they were probably lost when the office and its papers were consumed by fire.

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TH. JEFFERSON.

The said Message was read, and, together with the documents accompanying the same, referred to the committee appointed the second instant, on the memorial and remonstrance of Zachariah Cox.

On motion it was

*Resolved,* That the committee to whom were referred, on the twenty-second instant and this day,

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the petition of sundry residents and purchasers of land in the State of Ohio, and of sundry inhabitants of Fairfield county, in the said State of Ohio, be directed to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States, and report thereon to the House.

Mr. LUCAS, from the committee to whom were referred on the third and eighth instant, the memorials of sundry inhabitants of the two western counties of the Indiana Territory of the United States, made a report thereon; which was read, and ordered to lie on the table.

Mr. NEWTON, from the committee appointed yesterday, presented a bill to repeal an act, entitled "An act to establish an uniform system of bankruptcy throughout the United States; which was read twice and committed to a Committee of the Whole House to-morrow.

#### AMEY DARDEN.

On the motion of Mr. CLAIBORNE, the House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Amey Darden. The report is unfavorable to the prayer of the petitioner.

On agreeing to this report, a discussion took place which occupied the greater part of the day. Messrs. J. C. SMITH, GREGG, and MACON supported, and Messrs. CLAIBORNE, SMILIE, and ELLIOT opposed the report; when the question was taken on agreeing to the report of the Committee of Claims and lost, ayes 32.

Mr. CLAIBORNE then moved a resolution, "that the prayer of Amey Darden is reasonable and ought to be granted."

Messrs. CLAIBORNE and NICHOLSON supported, and Messrs. GRISWOLD and GREGG opposed this resolution, which, on the question being taken, was carried, ayes 61, ayes 38.

The Committee then rose, and reported their agreement to the resolution.

Mr. GREGG moved an amendment directing the proper accounting officer of the Treasury to settle the claim of Amey Darden, on the same principle with similar cases, the statute of limitations notwithstanding.

Messrs. GRISWOLD and GREGG supported, and Messrs. NICHOLSON and CLAIBORNE opposed the amendment.

A concurrence in the report was then agreed to, and the Committee of Claims instructed to bring in a bill.

#### FRIDAY, November 25.

Mr. JOHN C. SMITH, from the Committee of Claims, presented a bill for the relief of the legal representatives of David Darden, which was read twice, and committed to a Committee of the Whole House on Monday next.

A memorial of the Legislature of the State of Tennessee was presented to the House and read, praying that Congress will adopt such measures, as in their wisdom may be deemed expedient and proper, for extinguishing the Indian claims to lands within the limits of the said State.

*Ordered*, That the said memorial be referred to Mr. DICKSON, Mr. JOHN RANDOLPH, jun., Mr. PURVIANCE, Mr. LOWNDES, and Mr. VAN HORNE, to examine, and report thereupon to the House.

Sundry memorials of the people of the Mississippi Territory of the United States were presented to the House and read, respectively praying a revision and amendment of the laws relative to the sale of lands of the United States, in such manner as that grants for small or moderate portions of unappropriated land may be made to actual settlers, and that similar terms of disposal may be extended to future emigrants; or that such other measures may be adopted by Congress, as will accelerate the settlement and insure the prosperity of the said Territory.—*Referred*.

A petition of the Legislative Council and House of Representatives of the Mississippi Territory of the United States, was presented to the House and read, submitting to the consideration of Congress certain propositions of amendment to the act passed the third of March last, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" which they pray may be adopted for the benefit of the purchasers of land and other inhabitants within the said Territory.—*Referred*.

A petition and memorial of sundry inhabitants of the district of Washington, situate on the Mobile, Tombigbee, and Alabama rivers, in the Mississippi Territory of the United States, was presented to the House and read, praying, for the reasons therein specified, that a division of the said Territory may be made, and a separate Government established within and for the said District of Washington.—*Referred*.

Mr. SAMUEL L. MITCHELL, from the committee to whom was referred on the eleventh instant, the petition of sundry inhabitants of the town of New Shoreham, in the State of Rhode Island, made a report thereon, which was read and considered; Whereupon,

*Resolved*, That this House do concur with the Committee of Commerce and Manufactures in their opinion "that it is not expedient to make provision for allowing the petitioners a bounty for dried fish caught in boats of a smaller capacity than five tons."

*Ordered*, That the petition of Memucan Hunt, William Polk, and Pleasant Henderson, for themselves and others, addressed to the General Assembly of the State of North Carolina; also, sundry resolutions of the said Assembly, respecting a claim for the value of certain lands in the State of Tennessee, presented to this House on the nineteenth of January, one thousand eight hundred and two, and the report of a select committee thereon, made the twenty-fourth of March, in the same year, be referred to the Committee this day appointed on the memorial of the Legislature of Tennessee.

A Message was received from the President of the United States, communicating the treaty with the Kaskaskia Indians, as ratified by the Senate.

After some conversation on the mode of disposing of this communication, it was, on the motion

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of Mr. J. RANDOLPH, committed to a Committee of the whole House on Monday, in order to give the House an opportunity to exercise its Constitutional right of deciding on the propriety of passing the necessary laws to carry this treaty into effect.

On motion of Mr. NICHOLSON, the House went into a Committee of the Whole on the bill supplementary to an act, entitled "An act to prescribe the mode in which acts, records, and judicial proceedings of the States shall be so authenticated as to take effect in each State."

After considerable discussion, developing much diversity of opinion, the Committee rose, and the bill was recommitted to a select committee of nine members.

#### BANKRUPT LAW.

Mr. NEWTON called for the order of the day on the bill to repeal an act to establish an uniform system of bankruptcy throughout the United States; and the House then resolved itself into a Committee of the Whole on the said bill.

Mr. VARNUM moved an amendment, extending the period of repeal to the first of January, 1804, instead of from the passage of the act; and afterwards varied the motion, so as to leave the period of repeal blank.

This motion was supported by Messrs. R. GRISWOLD, EARLY, and SKINNER; and opposed by Messrs. SMILIE, NEWTON, RODNEY, and HASTINGS. Lost—ayes 25.

On motion of Mr. R. GRISWOLD, an amendment was introduced, directing the completion of all proceedings under commissions taken out previous to the repeal.

The Committee then rose and reported the bill with the above amendment, in which the House immediately concurred, and ordered, without a division, the bill to be engrossed for a third reading on Monday.

[The bill is concise, and is confined to repealing the bankrupt act, saving cases where commissions have been taken out previously to the passage of the act, at which time the repeal takes effect.]

#### RETRENCHMENT OF EXPENSES.

Mr. EPPES observed, that, when the bill fixing the salaries of certain officers was under the consideration of the House, allusion had been made to the expenses of the several Departments of the Government. As he thought it proper that the Legislature should meet all such in a fair manner, he submitted the following resolution:

"Resolved, That the Committee of Ways and Means be instructed to inquire whether any, and, if any, what reduction may be made in the expenses of the different Departments of the Government; and that they report to this House such arrangements as they may think calculated to promote economy, either by the reduction of compensations or contingent expenses in any of the Departments, or by the discontinuance of such offices, or such establishments, as may be dispensed with, without injury to the United States."

Mr. J. RANDOLPH moved that the resolution should lie on the table. He observed that the same duties enjoined by it on the Committee of

Ways and Means had been already devolved on them by the Standing Rules of the House. The resolution seemed to him, therefore, unnecessary. He concluded by moving a postponement of the further consideration of it to the first day of January next.

Mr. EPPES replied, that, although the resolution he had offered embraced some subjects assigned already by the rules of the House to the Committee of Ways and Means, yet, if the wording of it were attended to by the gentleman from Virginia, it would be found that it also embraced subjects that did not belong more to that committee than to any other committee. When he had proposed a resolution a short time since, the object of which was to reduce an establishment, in his opinion useless, it had been submitted to that committee. And in what consists the difference between the nature of that resolution and the one now offered? That was for the reduction of the single expenses of a single Department; this is for taking into consideration the state and expenses of the whole Departments of the Government. When the subject of salaries was before the House, we were told that it did not become us to make a saving in the salaries alone, but that it was proper to take an enlarged view of the whole of the Departments. What does this resolution contemplate? An inquiry into the state and expenses of the whole of the Departments. If this duty had been enjoined already on the Committee of Ways and Means, and they had either omitted or neglected to discharge it, the House was perfectly competent to lay an injunction on them to attend to it. For these reasons, Mr. E. said, he should not consent to the resolution either lying on the table, or being postponed, but should demand either its immediate adoption or rejection.

Mr. J. RANDOLPH.—Far be it from me to question the power of this House to make such disposition of this resolution as they shall see fit. It is a power to which I shall implicitly yield obedience. But, with that freedom which belongs to every member of the House, and which I shall always exercise, without any consideration of the quarter from which a motion comes, I shall use that degree of understanding with which it has pleased God to invest me, in forming a judgment of the course proper to be pursued on this as well as on every other occasion. My colleague does not take the distinction between a general and a specific resolution. It would be arrogating merit, which I do not deserve—a merit which I disclaim—to assume that my judgment is more clear or comprehensive than that of my colleague; and yet, my mind does perceive the widest difference between the reference to the Committee of Ways and Means of a general and of a specific proposition. It is the general duty of that committee, according to the Standing Rules of the House, "to examine into the state of the several public Departments, and particularly into the laws making appropriations of money, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to

add to the economy of the Departments, and the accountability of their officers."

This (if I may use the term) is a power of attorney by which the committee is authorized to act. If, therefore, any gentleman lay upon the table a resolution, which, to my poor judgment, appears to be a mere transcript of one already in existence, I shall be compelled to say that it seems to me to be either unnecessary, or to imply a censure on the manner in which the committee have discharged their functions. Does it follow, that, because a specific resolution is laid on the table respecting one Department in which there may be an abuse, or wherein a specific retrenchment of expense may be made, that thence there is a necessity to call the attention of the committee to all the objects within the sphere of their duties—that it is necessary for the House to go over the whole of their duties, and call them generally to a discharge of them? Therefore, when the gentleman called our attention to a particular source of expense—to a particular object—I thought the resolution in order, and voted for its reference to the Committee of Ways and Means. So, if he had laid on the table a string of resolutions calling the attention of the House and of the committee to certain specific objects of expense, I should have had no objection to referring them to that committee, unless, while the resolutions purported to specify particular objects, they embraced the whole duties of the committee. The gentleman says he calls upon the House, and demands an instantaneous adoption or rejection of the resolution. I presume, that, when any gentleman lays a resolution upon the table, his object is, that it shall be disposed of in such manner as shall be consonant with the rules of the House, or as the House may think proper.

Mr. EPPES rose to explain. He did not intend to prescribe the particular disposition which the House should make of the resolution, but had said that he would not consent to its postponement, or that it should lie on the table.

Mr. J. RANDOLPH.—The gentleman presses an immediate rejection or adoption of the resolution. To prevent an immediate decision of resolutions offered, I presume, the rules were established directing that they should lie on the table, or admitting of their postponement; and of that rule I wish to avail myself on this occasion. Let me ask, with what view instruct the committee generally as to the performance of duties already enjoined? If with a view to censure, as the gentleman seemed to intimate, let the gentleman bring forward a fair and open resolution of censure, and not aim at producing this effect in a side way. To what purpose give the committee this instruction, unless the House think they have neglected their duties? I will ask, if there is anything in this stage of the session that will warrant such a conclusion? I will ask if this, instead of being so early a day, were the last of the session, whether it would not be the fair and honorable conclusion, that the committee had adverted to the duties they had to perform; and, having made no report, had found that there existed no necessity of a reform, or a further accountability of the depart-

ments? For these reasons, I shall vote for a postponement of this resolution to the first day of January next; and shall form my opinion of every resolution that shall come before this House, without reference to the quarter from which it shall proceed, according to the degree of judgment with which it has pleased Heaven to invest me, and shall exercise the right of expressing my sentiments freely, and in a manner most congenial to my habits and temper.

Mr. GREGG hoped the gentleman who had offered this resolution would agree to let it lie on the table. He was himself, at first, induced to think with the gentleman that, from the remarks which had fallen on both sides of the House, on the bill respecting salaries, such an inquiry as that at present proposed would be highly proper, and had himself contemplated the offering a similar resolution. But, on further inquiry, he had found that, by the existing rules of the House, the Committee of Ways and Means were already fully instructed to make the necessary inquiries; and he thought that such a resolution, under those circumstances, would wear the appearance of censure on that committee. It was known to the House that that committee had much and important business submitted to them. They had already done much business, and much, he understood, was in a state of preparation. He hoped, therefore, that the resolution would be suffered to lie on the table; and that, at some future day, it would be called up, in case the committee did not, in the interim, pay a due attention to the duties enjoined on them.

Mr. NICHOLSON.—I am persuaded that the gentleman who offered this resolution did not intend, in the most distant manner, to censure the Committee of Ways and Means. I, as a member of that committee, do not feel that the least censure was intended or is deserved. Nor do I think that this would be the effect of the resolution if adopted by the House. It is true, that one part of the resolution contemplates objects embraced in the general rules; but it is also true that it embraces other objects, not mentioned in the rules. It is more than probable that it was to these last particular objects that the gentleman meant to direct the attention of the Committee of Ways and Means. I allude to that part of the resolution that contemplates the discontinuance of such offices or establishments as are useless. The rule of the House does not empower the committee, in express terms, to make such an inquiry, though I have no doubt that that object is substantially embraced by the spirit of it. The powers of the Committee of Ways and Means were materially changed at the beginning of the seventh Congress. They were then empowered

"To examine into the state of the several public departments, and particularly into the laws making appropriations of moneys, and to report whether the moneys have been disbursed conformably with such laws; and also to report, from time to time, such provisions and arrangements as may be necessary to add to the economy of the departments, and the accountability of their officers."

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This power was ingrafted on the previous powers of that committee, from a bill that originated with the committee usually styled the Committee of Investigation. The bill was introduced to destroy the two offices of the Accountants of the War and Navy Departments; and the title of it was transfused into the standing rules of the House. It is extremely probable that the gentleman who has offered this resolution, as well as other gentlemen, had no idea of the extent of the powers given to the Committee of Ways and Means. Under this view, I do not think the resolution will answer any useful purpose, as the Committee of Ways and Means have already the same duties devolved upon them which it assigns. I am convinced the same gentlemen who offered it will have no objection to its postponement till the 1st of January; and, in the meantime, the Committee of Ways and Means will, if they see fit, make the inquiry which appears to be the object of it.

MR. RODNEY.—With my friend from Virginia, (MR. RANDOLPH,) I will, on all occasions, exercise an independent judgment on any proposition submitted to the House, without regard to the quarter from which it may come, and, with my friend from Maryland, (MR. NICHOLSON,) I am satisfied that the idea of censuring the Committee of Ways and Means was the most remote from the intention of my friend from Virginia, (MR. EPPES,) from his known character. I shall consider, then, this resolution, as well as all others, on its merits alone. Three objections have been raised against it; first, that it implies a censure upon the Committee of Ways and Means, of which I am a member; secondly, that the subjects to which it relates are already before that committee; and, thirdly, it is required that it lie on the table for consideration. As to the first objection, I shall put it out of the question, as I am satisfied such an idea as that of censuring the committee never entered the imagination of the gentleman who moved the resolution; and as no such idea can be collected from the expressions of the gentleman, or appears on the face of the resolution. As a member of that committee, I am not sensible of its implying any censure, though, I trust, I should be as much alive as any other member of the committee to the imputation of censure.

As to the second objection to the resolution, that it assigns duties already devolved by the rules of the House, it may be true that all the duties imposed by the resolution are embraced by the rules; but, as a member of the Committee of Ways and Means, I shall always feel thankful to any member for calling to my view any specific duties which that committee ought to perform. I shall never be offended by the call of any gentleman upon me to discharge my duty. It is true, that we have certain duties assigned us by the House, for the performance of which we may be said, in the language of the gentleman from Virginia, to be the attorney of the House; but, I think, if I may use the expression, the fee simple resides in the House; and it is not only the right, but the duty of any member to call any committee to the discharge of the duties assigned it. I

feel, therefore, no objection to the resolution on this score. The same course has been pursued in the other resolution offered by the same gentleman; and though, in that case, it was a particular duty to which the attention of the committee was called, yet I do not consider that there is any solidity in the distinction attempted to be drawn by my learned friend from Virginia, between specific and general propositions. If there is any distinction, it is so slight that I am unable to perceive it. As the original resolution offered by my friend from Virginia, called the attention of the committee to a specific point, so does this. It does not call upon the committee to discharge all the duties devolved upon them, but invites their attention to particular points of duty; and though we may, by the standing rules of the House, be empowered to make an inquiry on the same subjects, yet, as this resolution directs us specifically to particular points, I shall consider it my special duty to attend to them, if it shall pass.

For these reasons, said Mr. R., I consider the resolution in every point of view correct. As to a postponement, I have no objection, with the consent of the gentleman who moved the resolution, to postpone it to a distant day, not however so distant as January.

MR. NICHOLSON.—I think the resolution useless, and if the question now before us was, whether we should agree or disagree to it, I should give it my negative, that the House may preserve some consistency in their proceedings. I will call the attention of gentlemen to the fate of several resolutions, offered two years since, from a certain quarter of the House, calling the attention of the Committee of Ways and Means to the expediency of reducing the duties on brown sugar, coffee, and bohea tea. They were then rejected, on the ground that the previous general powers conferred on that committee involved power to inquire on that specific proposition. If now we adopt this resolution, coming from another quarter of the House, we shall not preserve consistency of conduct. I hope gentlemen, from a regard to consistency, will agree to postpone this resolution.

The question was then taken on a postponement of the resolution, to the first day of January, and lost—ayes 37, noes 61.

MR. SMILIE considered it improper to pass a resolution of so much importance so hastily. He moved a postponement to the first Monday of December.

MR. STANFORD moved an adjournment of the House. Lost—ayes 45, noes 55.

MR. S. then moved a postponement to the third Monday of December. Lost, without a division.

The motion of MR. SMILIE, to postpone the resolution to the first Monday of December, was then agreed to—ayes 72.

MR. VARNUM then moved that the resolution offered by MR. EPPES should be printed for the use of the members.

MR. J. RANDOLPH moved for printing, in connexion with the resolution, the standing rules of the House respecting the duties of the Committee of Ways and Means.



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Mr. VARNUM called for a division of the question.

Mr. NICHOLSON moved an adjournment. Carried—ayes 60.

MONDAY, November 28.

The SPEAKER laid before the House a letter from the Postmaster General, enclosing his annual report respecting post roads which have been established within the United States more than two years, and have not, in the second or last year, produced one-third part of the expense of carrying the mail on the same for such year; which was read, and ordered to be referred to the committee appointed, on the eighteenth ultimo, "to inquire whether any, and what, amendments are necessary to be made to the acts establishing a post office and post roads within the United States."

A petition of sundry residents and claimants of lands on the Alabama river, and on the east side of the river and bay of Mobile, in the Mississippi Territory of the United States, was presented to the House and read, praying, for the reasons therein specified, a repeal of so much of the eighth section of an act, passed the third of March last, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," as provides that no certificate shall be granted for lands lying east of the Tombigbee river; or that such modification and amendment of the said act may be made, as Congress in their wisdom shall deem expedient and proper.—Referred.

Mr. EARLY, from the committee to whom was referred, on the second instant, the remonstrance and memorial of Zachariah Cox, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Wednesday next.

An engrossed bill to repeal an act, entitled "An act to establish a uniform system of bankruptcy throughout the United States," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the further protection of the seamen and commerce of the United States," with several amendments; to which they desire the concurrence of this House.

#### PUBLIC ROADS.

On the call of Mr. JACKSON, the House resolved itself into a Committee of the Whole on the following resolution:

"Resolved, That provision be made, by law, for the application of one twentieth part of the net proceeds of the land lying within the State of Ohio, sold, or to be sold by Congress, from and after the 30th day of June, 1802, to the laying out, and making public roads, leading from the navigable waters emptying into the Atlantic, to the Ohio river, and to the said State of Ohio: in conformity with the acts of Congress, entitled "An act to enable the people of the eastern division of the territory Northwest of the river Ohio, to form a constitution, and State government, and for the ad-

mission of such State into the Union on an equal footing with the original States; and for other purposes," passed upon the 30th April, 1802, as well as the act passed the 3d of March, 1804, in addition to and in modification of the propositions contained in the act aforesaid; and the ordinance of the convention of the State of Ohio, bearing date the 29th day of November, 1802."

Mr. JACKSON called for the reading of the acts of Congress which were referred to in the resolution; which was done: he then moved that the Committee rise and report their agreement.

Mr. VARNUM said he hoped the question would be taken separately on the resolution.

Mr. JACKSON hoped that gentlemen opposed to the resolution would rise at that time and express their opinions.

Mr. NICHOLSON was opposed to the resolution, but was prevented from indisposition from expressing his sentiments; he would do it at a future period.

Mr. J. RANDOLPH was sorry that the indisposition of his friend from Maryland should prevent him from delivering his sentiments on this occasion. He was himself unprepared to speak on this question, but it appeared to him, from a complete view of the subject some time since, that the resolutions contravened one of the provisions of the law to which it was referred; by reverting to that law, it would be found that in one of the propositions offered by Congress to the State of Ohio, it was provided that one twentieth part of the net proceeds, arising from the sale of lands in that State, should be laid out in roads to and from it, and laid out under the direction of Congress. The State of Ohio agreed to adopt the propositions if Congress would make an amendment, (which he read.) He wished to call the attention of the Committee to the facts and wished them to attend to the different propositions. He should not have troubled the Committee but from an apprehension that when gentlemen had taken up an opinion, they were loth to abandon it. One of the propositions of Congress was, that one-twentieth part of the net proceeds arising from the sale of lands in the State of Ohio should be laid out under the direction of Congress in the making of roads from the Atlantic to that State. The State of Ohio agrees to the proposition with this amendment, that not less than three per cent. should be laid out exclusively in that State, under the direction of their Legislature. He conceived that the last proposition was only a modification of the former, and that the three per cent. was a part of the five, and not an additional allowance; if the latter had been intended, why, he asked, was it not so expressed? There were several other propositions and they were stated to be amendments. He considered Congress never intended to grant more than five per cent., and should therefore vote against the resolutions.

Mr. JACKSON differed with gentlemen who considered the three per cent. as a part of the five; he considered it as an addition, and he hoped he should be able to convince the Committee of it. In order to do this, it would be necessary to read a number

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of documents on the subject; they were lengthy, but the subject was important, and he conceived them necessary in order to decide correctly on the subject. Here Mr. JACKSON read a number of documents on the subject, and observed that he conceived that the State of Ohio expected that the three per cent. was in addition to the five; if the last proposition was to be taken as a modification of the former, then the three per cent. was to be taken in lieu of the five; if however, it was in addition to it, then the three per cent. was to be added to the five. If they would recur (Mr. J. said) to the letter of the Secretary of the Treasury, it would be found that he was in favor of ten per cent.; but Congress were for five. If the Legislature of Ohio were for taking three per cent. to be laid out under their own direction, instead of five to be laid out under the direction of Congress, they would so have expressed it; and if Congress intended it, they were bound so to express themselves; but they intended no such thing. If the proposition was of a doubtful nature, and it appeared to be so from the arguments of his colleague, he begged leave to recommend to the Committee a liberal construction; we ought, he said, to extend a fostering hand to our western brethren; the people of the western country are attached to the Government, but if we do not extend to them the fostering hand, he could not say how long they would be so.

Mr. R. GRISWOLD apprehended there could be no doubt as to the construction which Congress gave to the law in question; there might be some doubt whether that construction was a sound one, he however thought it perfectly so. In the year 1801, Congress provided that one-twentieth part of the net proceeds arising from the sale of lands in the State of Ohio should be applied to making roads to that State, under the direction of Congress. The proposition was laid before the State of Ohio. The Convention of Ohio agreed to it, provided Congress would consent to a modification of it; they wished some part of the five per cent. to be laid out exclusively in their own State and under the direction of their own Legislature; they therefore proposed that three per cent. should be laid out in the State, and under the direction of the Legislature of Ohio. If the State of Ohio had intended that the three per cent. was to be added to the five, they would have stated it (as in the other propositions) to be in addition to it. The committee which were on the subject last session, gave the law the same construction which he did, and the House concurred in that construction. He thought they were under no obligation to lay out more money than they had agreed to do, and if the committee would attend to the subject they could be under no difficulty to determine the construction. We had an appropriation of two per cent. to make, and perhaps it might be necessary to pass a law to that effect; but he could not consent to give any more.

Mr. G. W. CAMPBELL would beg the indulgence of the Committee while he said a few words on the subject before them. As he should vote in favor of the resolution on the table, he conceived

that when they were about to determine on the construction of a law, they were only to refer to the face of it, and not to inquire what the framers of it meant. He begged leave to read the law on the subject, and said that the law of Congress concerning five per cent. was in force unless repealed by another law; and the subsequent law which provided for the laying out of three per cent. in roads, was either in addition to or a repeal of it; he believed that it was an addition to it. It could not be the intention of the Convention of Ohio to accept of three per cent. to be laid out in their own State, and under the direction of their own Legislature, in lieu of five per cent. to be laid out under the direction of Congress. He should, considering the appropriations to be distinct ones, vote in favor of the resolutions.

Mr. RODNEY deemed it necessary to make but few observations after the able arguments of his friend from Virginia, (Mr. RANDOLPH,) and the luminous observations of the gentleman from Connecticut, (Mr. GRISWOLD,) against the resolutions. The question to be determined, was, whether the five per cent. was to be given exclusive of the three? It had been said that they ought not to consider the intention of those who framed the law, but he conceived it to be proper, in order to give a right construction. When they reverted to the propositions themselves, they would find one of them was, that provided the State of Ohio would not for a limited time tax the lands of the United States, that then one-twentieth part of the net proceeds arising from the sale of lands in that State should be laid out in making roads to the State of Ohio, the same to be laid out under the direction of Congress. When this proposition, came before the Convention of Ohio, they said that three per cent. ought to be laid out exclusively in their own State and under the direction of their Legislature. This could only be intended as a modification of the law. He did not think there was any difficulty in determining the construction of the law, and should vote against the resolution.

Mr. VARNUM conceived that the construction given to the law by the gentlemen from Virginia, Connecticut, and Delaware, was perfectly correct. He did not know whether it would be necessary to make an appropriation of the remaining two per cent. during this session, but in order to try the principle, he moved to strike out of the resolution the words one-twentieth and insert one-fiftieth.

Mr. SANDFORD had not intended to have troubled the Committee on this occasion, but being a Representative from the West, it might be expected that he might be in favor of the resolution. But he did not conceive that more than five per cent. was ever intended to be given, and this was not a question of expediency. He did not believe that the Convention of Ohio intended that the three per cent. should be given in addition to the five, nor had they any reason to expect it. This ought not to be an Eastern and a Western question. If the five per cent. were now given, Mr. S. asked whether it would not operate for the benefit of

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the rest of the States as well as the State of Ohio? But, as they must determine not what Congress ought to give, but what they meant to give, and he conceived that three per cent. was a part of the five, he should therefore vote against the resolution.

Mr. LYON spoke in favor of the resolution, at some length.

Mr. MACON did not think it necessary to say anything on the construction of the law, because he conceived that the arguments of the two first gentlemen who opposed the resolution (Messrs. J. RANDOLPH and R. GRISWOLD) to be unanswerable; but as the question appeared to be made an Eastern and a Western one, he would say a few words. He considered the whole United States concerned in it, and not merely the State of Ohio. He believed that the arguments of gentlemen that they had not done justice to the State of Ohio were groundless. There was no State in the Union which has been so much favored as that State. He was sorry gentlemen had used threats on the occasion, that if they did not grant this, they might not be attached to the Union; but he believed that the State of Ohio would be the greatest loser by it. He was willing to leave it to the Western people themselves to determine, whether Congress had not done them justice, and he was certain they would answer in the affirmative.

Mr. BOYLE did not consider this a question of party nor of expediency; not what Congress ought to give, but what they had given. If the construction of the law was difficult to determine, it ought to be taken against the United States and favorable to the State of Ohio, because Congress was the grantor and that State the grantee. This was the manner in which private contracts were always construed, and he thought it a sound one. The gentleman from Virginia (Mr. JOHN RANDOLPH) had said that the three per cent. was not intended to be given in addition to the five, because it was not so expressed; but Mr. B. said, the last law was not said to be a modification, the construction was therefore doubtful and ought to be taken favorable to the State of Ohio.

Mr. GODDARD did not think they were under any difficulty in determining the true construction of the law in question. He considered it to admit of but one construction; this appeared to him to be a negotiation between Congress and the State of Ohio. It was proposed by the former, that if the latter would not tax their lands for a limited time, the one-twentieth part of the net proceeds should be laid out in making roads for that State under the direction of Congress; the State of Ohio acceded to it, provided three per cent. should be laid out exclusively in that State, and Congress agreed to it; this appeared to him to be the true state of the case.

Mr. SMILE would make one observation on the subject. He believed it to be a good rule, when any subject was to be examined, to look at the intention of the parties; he never conceived that it was the intention of Congress to give to the State of Ohio more than five per cent., nor

did he believe any gentleman, a member of Congress at the time the law passed, had any such intention.

Mr. JACKSON moved that the Committee rise.—Lost without a division.

Mr. MORROW would beg the indulgence of the Committee while he made a few observations on the subject. He was sorry this was made a party question. He read the report of the committee of Congress and the propositions of Congress to the State of Ohio; and observed that when the propositions came before the Convention, they were pleased with them, but did not consider that the five per cent., which was to be laid out in roads, was an equivalent for what they asked: which was, that the State of Ohio should not for a limited time tax the lands of Congress. How, said Mr. M., gentlemen would ask, was this known? He would answer, by an estimate of the value of both; therefore they agreed to the propositions, provided Congress would make an amendment, and allow them an additional three per cent. to be laid out exclusively in their own State and under the direction of their Legislature; to this Congress agreed. He conceived the question for them to determine, whether the three was in addition to or in lieu of the five; he believed it could not be the latter, because it would go to defeat the original design, which was facilitating the communication between the Eastern and Western States. He was in favor of the resolution believing that it was the intention of the Convention of Ohio, at the time they agreed to the propositions, that the three per cent. was to be given in addition to the five.

The question was taken on Mr. VARNUM's motion to strike out one-twentieth and insert one-fiftieth and carried—yeas 75.

The question was then taken on the resolution as amended, and carried without a division.

TUESDAY, November 29.

The amendments proposed by the Senate to the bill, entitled "An act for the further protection of the seamen and commerce of the United States," were read, and, together with the bill, ordered to be committed to Messrs. EUSTIS, J. CLAY, MCCREERY, DANA, and HASBROUCK.

Mr. FINDLEY, from the Committee of Elections, to whom it was referred to examine the certificates and other credentials of the members returned to serve in this House, made a farther report, in part, which was read, and ordered to lie on the table.

A Message was received from the President of the United States, communicating an appendix to the information heretofore given on the subject of Louisiana. The said Message was read, and, together with the appendix transmitted therewith, referred to the committee appointed on the twenty-seventh of October last on so much of the President's Message of the twenty-first of the same month as relates "to permanent arrangements for the government of Louisiana."

The amendment of the Senate to the bill mak-

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ing provision for the further protection of the seamen and commerce of the United States, were referred to a select committee.

The House took up the report of the Committee of the Whole on Mr. JACKSON's resolution making an appropriation of a certain part of the proceeds of lands, sold in Ohio, to the making public roads, and agreed to it without a division. After which several verbal amendments were made, and the resolution thus amended referred to a committee to bring in a bill.

Mr. DAWSON called for the order of the day on two resolutions, some time since offered, respecting post roads.

#### AMEY DARDEN.

Mr. CLAIBORNE called for the order of the day on the bill for the relief of Amey Darden.

The motion of Mr. DAWSON being lost, there being only thirty-two ayes in favor of it, Mr. CLAIBORNE's motion was taken up.

Mr. SANFORD moved to postpone the order of the day on the bill for the relief of Amey Darden till to-morrow, in order to introduce a resolution for the appointment of a committee to inquire into the expediency of extending the time for adjusting the claims of individuals for supplies furnished and services rendered during the Revolutionary war, with the view of trying previously to the granting individual relief the general principle, whether Congress would repeal the statutes of limitation.

After a debate of considerable length, the motion to postpone was lost.

The House then went into a Committee of the Whole on the bill, which was so amended as to allow Amey Darden two thousand five hundred dollars for the horse Romulus, being the estimated value thereof, not including interest.

The Committee reported the bill so amended.

The question was then taken on two thousand five hundred dollars, and decided in the negative by the vote of the SPEAKER.

Mr. NICHOLSON moved to fill the blank with two thousand three hundred and twenty dollars, being the amount of principal and interest on the value of the horse.

Mr. SANFORD moved to fill it with one thousand dollars.

The House agreed to Mr. NICHOLSON's motion—ayes 58, noes 43.

The yeas and nays were then taken on the engrossing of the bill for a third reading—yeas 57, nays 49, as follows:

YEAS—Willis Alston, junior, Isaac Anderson, John Archer, David Bard, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Richard Cutts, William Dickson, John B. Earle, Peter Early, James Elliot, John W. Eppes, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, Seth Hastings, Joseph Heister, James Holland, John G. Jackson, Michael Leib, Joseph Lewis, jun., John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Thomas M. Randolph,

John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, John Smith of Virginia, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—Nathaniel Alexander, Simeon Baldwin, Geo. Michael Bedinger, Silas Betton, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, William Eustis, William Findley, Calvin Goddard, Edwin Gray, Andrew Gregg, Gaylord Griswold, Roger Griswold, John A. Hanna, Josiah Hasbrouck, William Hoge, David Holmes, David Hough, Benjamin Huger, William Kennedy, Henry W. Livingston, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Thomas Plater, John Randolph, jun., Erastus Root, Thomas Sandford, Tompson J. Skinner, John Smilie, John Cotton Smith, John Smith of New York, William Stedman, James Stephenson, Benjamin Tallmadge, Samuel Tenney, David Thomas, George Tibbits, Peleg Wadsworth, John Whitehill, Lemuel Williams, and Thomas Wynns.

*Ordered*, That the said bill be read the third time to-morrow.

#### WEDNESDAY, November 30.

The SPEAKER laid before the House sundry depositions and other papers, transmitted from the counties of Greenbriar and Rockbridge, in the State of Virginia, respecting the contested election of THOMAS LEWIS, one of the members returned to serve in this House for the said State; which were ordered to be referred to the Committee of Elections.

Mr. JOHN RANDOLPH, jr., from the Committee of Ways and Means, presented a bill giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes; which was read twice, and committed to a Committee of the whole House on Monday next.

An engrossed bill for the relief of the legal representatives of David Darden, deceased, was read the third time; and on the question that the said bill do pass, there appeared—yeas 58, nays 57. And Mr. SPEAKER having declared himself with the nays, the said question was, in conformity with the rules of the House, decided in the negative. And so the said bill was rejected.

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, John Boyle, Robert Brown, Joseph Bryan, William Butler, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Richard Cutts, William Dickson, John B. Earle, Peter Early, James Elliot, John W. Eppes, James Gillespie, Peterson Goodwyn, Samuel Hammond, Daniel Heister, Joseph Heister, John G. Jackson, Walter Jones, Michael Leib, Joseph Lewis, jr., Matthew Lyon, Andrew McCord, David Meriwether, Jeremiah Morrow, Anthony New, Thos. Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Thomas M. Randolph, John Rea, of

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Pennsylvania, John Rhea of Tennessee, Jacob Richards, C. A. Rodney, Thomas Sammons, John Smith of Virginia, Richard Stanford, Joseph Stanton, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, Richard Winn, and Joseph Winston.

**NAVS**—Nathaniel Alexander, Simeon Baldwin, Geo. Michael Bedinger, Silas Betton, Phanuel Bishop, Wm. Blackledge, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dawson, Thomas Dwight, William Eustis, William Findley, Calvin Goddard, Edwin Gray, Andrew Gregg, Gaylord Griswold, Roger Griswold, Josiah Hasbrouck, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, William Kennedy, Nehemiah Knight, H. W. Livingston, Thomas Lowndes, William McCreery, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, John Randolph, jr., Erastus Root, Thomas Sandford, Tompson J. Skinner, John Smilie, John Cotton Smith, John Smith of New York, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, David Thomas, George Tibbits, Peleg Wadsworth, John Whitehill, Lemuel Williams, and Thomas Wynns.

#### THURSDAY, December 1.

Mr. EUSTIS, from the Committee to whom were referred, on the twenty-fourth ultimo, the amendments proposed by the Senate to the bill, entitled "An act for the further protection of the seamen and commerce of the United States," made a report thereon; which was read, and, together with the said amendments, ordered to be referred to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, of the sixteenth ultimo, on the memorial of Paul Coulon, a French citizen; and, after some time spent therein, the Committee rose and reported progress.

*Ordered*, That the Committee of the Whole be discharged from the farther consideration thereof, and that the said report and memorial be recommended to the Committee of Claims.

The House resolved itself into a Committee of the Whole on the report of the committee of the twenty-eighth ultimo, on the remonstrance and memorial of Zachariah Cox; and, after some time spent therein, the Committee rose and reported to the House their agreement to the resolution contained therein.

*Ordered*, That the consideration of the said report and resolution be postponed until Monday next.

*Ordered*, That the memorial and petition of the Illinois and Ouabache Land Companies, which was read and ordered to lie on the table on the twenty-seventh of October last, be referred to Mr. LEIB, Mr. THOMPSON, Mr. SANDFORD, Mr. TAGGART, and Mr. MCCORD, to examine and report their opinion thereupon to the House.

The House resolved itself into a Committee of the Whole on the Message from the President of the United States, of the twenty-fifth ultimo,

enclosing a treaty lately concluded between the United States and the Kaskaskia tribe of Indians; and, after some time spent therein, the Committee rose and reported two resolutions thereon; which were, severally, twice read, and agreed to by the House, as follow:

1. *Resolved*, That provision ought to be made for carrying into effect the treaty concluded at Vincennes, in the Indiana Territory, on the thirteenth of August, one thousand eight hundred and three, between the United States of America and the Kaskaskia tribe of Indians.

2. *Resolved*, That the committee appointed, on the twenty-second of November last, on the petitions of sundry residents in the State of Ohio, be authorized and directed to report by bill, or otherwise, the provisions for carrying the said treaty into effect, and on our other concerns with the Indian tribes.

#### FRIDAY, December 2.

Another member, to wit: JOHN DENNIS, from Maryland, appeared, produced his credentials, was qualified, and took his seat in the House.

Mr. NICHOLSON, from the committee appointed the twenty-second of November last, who were directed by a resolution of the House, of the twenty-fourth of the same month, "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made a report, in part, thereupon; which was read, and ordered to be referred to a Committee of the whole House on Monday next.

Mr. LEIB, from the committee appointed on the twenty-second of October last, presented a bill to reduce the Marine Corps of the United States;" which was read twice and committed to a Committee of the whole House on Monday next.

#### BENJAMIN WELLS.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims on the petition of Benjamin Wells, which is as follows:

"The object of the petitioner is to obtain indemnification for the losses he sustained by the insurrection in the western counties of Pennsylvania, in the year 1794. These were estimated by the commissioners appointed for that purpose, under the act of Congress passed the 27th of February, 1795, at one thousand two hundred and thirty-seven dollars and fifty cents; on account of which, there was advanced to the petitioner, by Government, the sum of eight hundred and twenty-seven dollars and fifty cents, for which he is held responsible by the terms of the act just mentioned.

"If your committee entertained the opinion, that the Government is bound to make reparation for damages occasioned by rioters or insurgents, still they would not be disposed to admit the report of the commissioners in the present instance, as conclusive evidence of the just amount of those damages. It is very obvious that, with the best possible intentions to do complete justice, they were exposed, in an *ex parte* inquiry, to various impositions, from the representations of their losses by the parties interested.

"From the best information your committee can obtain, they are satisfied that the sum already received from the Government by the petitioner, must be viewed

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as an adequate compensation for the actual destruction of property he has sustained. To exonerate him from further liability, to refund this sum, would, it is believed, under all the peculiar circumstances of the case, be an act of justice as well as of liberal policy. And, as there are other sufferers from the same unfortunate transactions, to whom similar advances have been made, your committee are of opinion that relief should be extended to all, under one general provision. They, therefore, respectfully submit to the House the following resolution, to wit:

*“Resolved, That the officers of Government and other citizens to whom moneys were advanced by the President of the United States, pursuant to a law passed the twenty-seventh day of February, one thousand seven hundred and ninety-five, entitled “An act to provide some present relief to the officers of Government, and other citizens, who have suffered in their property by the insurgents in the western counties of Pennsylvania,” ought to be exonerated from any future responsibility for the moneys so advanced to them respectively.”*

Messrs. J. C. SMITH, SMILIE, and FINDLEY, supported, and Mr. CLAIBORNE opposed the report.

The report was agreed to—ayes 64, noes 24.

The Committee rose and reported the report of the Committee of Claims without amendment.

Mr. JACKSON moved a postponement of the further consideration of the report until Monday.

Messrs. JACKSON, HOLLAND, and CLAIBORNE, supported, and Messrs. J. C. SMITH and SMILIE opposed the postponement, which was lost.

The House then concurred in the report of the Committee, and directed a bill to be brought in.

#### STEPHEN KINGSTON.

The House went into Committee of the Whole on the report of the Committee of Commerce and Manufactures on the petition of Stephen Kingston, which is unfavorable to the prayer of the petitioner.

Messrs. MITCHELL, J. CLAY, and R. GRISWOLD, opposed the report.

Mr. NICHOLSON moved that the Committee should rise, in order to have the report recommitted to the Committee of Commerce and Manufactures.

The motion was opposed by Messrs. J. CLAY and S. L. MITCHELL, and lost.

The Committee then non-concurred in the report of the Committee of Commerce and Manufactures—ayes 43, noes 57.

The Committee then rose, and the House agreed to their report.

Mr. J. CLAY then moved a resolution, “that the prayer of the petition of Stephen Kingston ought to be granted.”

Mr. R. GRISWOLD moved a recommitment of the report to the Committee of Commerce and Manufactures. Lost—ayes 25.

The House then agreed to postpone the further consideration of the resolution until Monday.

#### MONDAY, December 5.

The SPEAKER laid before the House sundry depositions and other papers, transmitted from the county of Montgomery, in the State of North Carolina. —21

rolina, respecting the contested election of SAMUEL D. PURVIANCE, one of the members returned to serve in this House for the said State; which were ordered to be referred to the Committee of Elections.

The SPEAKER laid before the House a letter from the Secretary of State, enclosing his report on a petition, in the French language, of sundry inhabitants of Post Saint Vincennes, in the Indiana Territory of the United States, referred to him by order of the House, on the second of March last; which were read, and ordered to lie on the table.

A Message was received from the President of the United States, transmitting information that all differences with Morocco had been amicably adjusted.

The said Message, and the papers transmitted therewith, were read, and referred to Mr. EUSTIS, Mr. DENNIS, Mr. CONRAD, Mr. GILLESPIE, and Mr. LOWNDES, to examine and report their opinion thereupon to the House.

Mr. J. C. SMITH, from the Committee of Claims, presented a bill for the relief of the officers of the Government, and other citizens, who suffered in their property by the insurgents in the Western counties of Pennsylvania; which was received, read twice, and committed to a Committee of the whole House to-morrow.

Mr. NICHOLSON observed, that when the City of Washington was laid out, a considerable portion of ground was surrendered by the proprietors to the Commissioners, for the purpose of providing for public walks and gardens, it being considered that when the population of the city should be advanced they would contribute to the health and convenience of the inhabitants. This ground was at present in a waste state; neither productive of profit nor embellishment. By putting it in a state of cultivation, it might contribute to the convenience of the inhabitants as well as of the members of Congress. This might be effected by leasing it for a number of years to one or more persons, on condition of their laying out the rent in its improvement. Mr. N. said he was unwilling to expend any public money on this object, but he believed it might be effected without expense. He therefore moved the following resolution:

*Resolved, That a committee be appointed to take into consideration the present situation of the grounds in the City of Washington, which were appropriated for the purpose of laying out public walks and gardens, and to report such measures to this House as may tend to carry into effect the original intention of the proprietors by whom the said lands were granted for public use.*

Agreed to without a division, and referred to Messrs. NICHOLSON, S. L. MITCHELL, CUTLER, ANDERSON, and J. SMITH of Virginia.

A message was received from the Senate, advising that they had passed an amendment to the Constitution of the United States respecting the election of a President and Vice President; which was read twice, and committed to a Committee of the Whole to-morrow.

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Receipts of the Post Office.

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Mr. HUGER moved the commitment to the same committee of a proposition of amendment to the Constitution by the Legislature of New York, directing the establishment of electoral districts throughout the United States, on the ground of connexion between it and the amendment of the Senate.

Mr. THOMAS, though in favor of electoral districts, was averse to blending in one proposition two distinct amendments.

The question on commitment was lost—yeas 44, nays 50.

On motion, it was

*Resolved*, That a committee be appointed to inquire into the expediency of granting further time to the proprietors of military land warrants to obtain and locate the same, and report their opinion thereon to this House.

*Ordered*, That Mr. VAN HORNE, Mr. ARCHER, Mr. J. TRIGG, Mr. SAMMONS, and Mr. TENNEY, be appointed a committee, pursuant to the said resolution.

#### THE POST OFFICE.

On the motion of Mr. R. GRISWOLD, the following resolution was taken into consideration:

*Resolved*, That the Postmaster General be directed to prepare and report to this House a statement of the gross sum received in each State for the postage of letters, packets, and newspapers, in the years 1801, 1802, and 1803, respectively, together with the sums which have been paid in each year, and in each State, for commissions to postmasters, for carrying the mail, and for all other expenses in relation to the Post Office, in each State, respectively.

Mr. VARNUM inquired what was the object of the resolution? If the information it requested was important, he had no objection to calling for it. It appeared to him it could not be had without considerable expense and the loss of much time.

A short debate then took place on the resolution.

By Mr. R. GRISWOLD it was contended that the information desired was important; that with regard to the expenditures of all public moneys, it was important that that House and the nation should be acquainted with the details; that there were propositions before the House for applying the surplus proceeds of the Post Office establishment to the making and repairing of roads, and that it appeared in the first instance to be intended to commence the application to roads near the seat of Government; hence the propriety of knowing, before this object was decided on, the amount of revenue drawn from the different States, in order to determine where, if at all, it should be laid out. The information would also be useful, inasmuch as it would exhibit the progress of business in different quarters of the Union, indicated by the increased receipts of the Post Office establishment.

Messrs. J. RANDOLPH and DAWSON also supported the resolution, on the ground that full information should be laid before Congress and the public of the application of all public moneys.

Messrs. VARNUM and GREGG opposed the resolution, on the ground of the great trouble it would

impose on the Postmaster General to comply with it, and the expense that would unavoidably attend it. They acquiesced in the resolution so far as it respected obtaining the expenses generally, but objected to that part which required a statement of the receipts and expenses in each State. With regard to the propositions before the House for applying the surplus receipts of the Department to repairing or making roads, it was very doubtful whether they would receive the approbation of Congress. So far, therefore, as this resolution was predicated upon them, it was altogether premature.

Mr. GREGG moved to strike out the parts in *italic*, which required a statement of the receipts and expenses in each State.

Mr. R. GRISWOLD moved the taking the yeas and nays on the motion; which, being taken, were—yeas 19, nays 95, as follows:

YEAS—Messrs. David Bard, George Michael Bedinger, William Blackledge, John Boyle, John Dawson, Andrew Gregg, John A. Hanna, William Kennedy, Matthew Lyon, Beriah Palmer, John Rea of Pennsylvania, Jacob Richards, Tompson J. Skinner, John Smith of Virginia, Richard Stanford, David Thomas, Joseph B. Varnum, Matthew Walton, and John Whitehill.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, Simeon Baldwin, Silas Betton, Phaniel Bishop, Robert Brown, Joseph Bryan, William Butler, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dennis, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, James Gillespie, Calvin Goddard, Peterson Goodwin, Gaylord Griswold, Roger Griswold, Samuel Hammond, Josiah Hasbrouck, Seth Hastings, Daniel Heister, Joseph Heister, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, John Patterson, Thomas Plater, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rea of Tennessee, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Cotton Smith, John Smith of New York, Joseph Stanton, James Stevenson, John Stewart, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, George Tibbitts, Abram Trigg, John Trigg, Isaac Van Horne, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, Richard Winn, Joseph Winstons, and Thomas Wynns.

The question was then taken by yeas and nays on the resolution as originally moved by Mr. R. GRISWOLD—yeas 108, nays 10, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, Tho-



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mas Claiborne, Joseph Clay, Matthew Clay, John Clifton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, James Gillespie, Calvin Goddard, Peterson Goodwyn, Edwin Gray, Gaylord Griswold, Roger Griswold, Josiah Hasbrouck, Seth Hastings, Daniel Heister, Joseph Heister, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, John Patterson, Thomas Plater, Samuel D. Purviance, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Cotton Smith, John Smith of New York, John Smith of Virginia, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Philip R. Thompson, George Tibbits, Abram Trigg, John Trigg, Isaac Van Horne, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Marmaduke Williams, Joseph Winston, and Thomas Wynn.

**NAYS**—Andrew Gregg, Samuel Hammond, John A. Hanna, James Holland, Beriah Palmer, Tompson J. Skinner, David Thomas, Joseph B. Varnum, John Whitehill, and Richard Winn.

#### STATE BALANCES.

**Mr. RODNEY** called for the order of the day on his resolution to extinguish the State balances.

**Mr. EARLY** moved a postponement of the further consideration of the subject to the first Monday in January, assigning for reason the unrepresented situation of the State of New Jersey, a creditor State to a considerable amount.

**Mr. RODNEY** replied.

**Mr. HUGER** supported the motion for postponement.

**Mr. RODNEY** said, his solicitude that this business should be considered at an early day arose from his fear that, otherwise, it would, as it had been the last session, be deferred till the close of the session, and then, from the interference of other objects, be got rid of. But as gentlemen were anxious that New Jersey should be represented on that floor previously to a discussion of this business, he would give a pledge of his desire that the decision should be made with fairness, by acquiescing in the postponement.

The question of postponement was then carried—yeas 82.

TUESDAY, December 6.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to divide the Indiana Territory into two separate governments;" in which they desire the concurrence of this House.

#### AMENDMENT TO THE CONSTITUTION.

The order of the day for the House to resolve itself into a Committee on the amendment to the Constitution, received from the Senate, was called for.

**Mr. R. GRISWOLD.**—The House of Representatives some time since passed a resolution, amendatory of the Constitution, and sent it to the Senate for their concurrence. Of this resolution the Senate have taken no notice, but have sent us a different resolution on the same subject. This proceeding is, I think, unprecedented and unpatriotic; and I think we ought not to decide upon this resolution until the Senate shall have answered our resolution. I move, therefore, a postponement of the resolution from the Senate, until to-morrow.

**Mr. ELLIOT** hoped the consideration of the resolution from the Senate would not be postponed until to-morrow. How far it was proper to impeach the correctness of the course pursued by that body, it was not for him to say. Should they, on any occasion, invade the rights or the dignity of that House, no member would be found more ready to repel the invasion. In this case the Senate have sent us a proposition, embracing the same principle contained in our amendment, with other principles. He hoped, therefore, the House would immediately proceed to give the subject that attention which its intrinsic merits deserved.

**Mr. DAWSON** only rose to correct the gentleman from Connecticut as to precedent. It must be in the recollection of every gentleman on the floor, that the Senate have frequently sent us bills on the same subject with bills sent by us to them.

**Mr. R. GRISWOLD** wished the gentleman from Virginia would name an instance. He never knew a bill sent to the Senate, which they neglected acting on, and in the room of which sent one of their own.

The question was then taken on **Mr. GRISWOLD's** motion, and lost—yeas 32.

**Mr. R. GRISWOLD.**—I will submit another motion, to wit; that the Committee of the Whole be discharged from the further consideration of the resolution of the Senate. My grounds for this motion are these;—that this resolution has not been transmitted to us by a Constitutional number of Senators, and therefore, that the House cannot act upon it.

**Mr. DAWSON** inquired if the motion were in order.

**Mr. SPEAKER** said it was in order.

**Mr. R. GRISWOLD.**—The principle, I assume, is that this resolution has not passed the Senate by a Constitutional majority of that branch of the Legislature. By a certificate, obtained from the Secretary of that body, it appears that the resolution was passed by the votes of twenty-two members in favor of it; twenty-two voting in the affirmative, and ten in the negative. It is known to every gentleman that the Senate consists of thirty-four members, and that it consequently requires twenty-three to constitute two-thirds of its members. The principle, I assume, is, that it requires two-thirds of the members of each House to pass

a resolution proposing to alter the Constitution. The article of the Constitution on this point is the fifth. It is thus expressed: "The Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution." The question is, what is here meant by a House? Is it merely a majority of the Senators or Representatives; or is it the whole and entire number? To decide this point, we must refer to other parts of the Constitution where the word House is used. I hope gentlemen will critically attend to the words used, and from that attention form their opinions. The third section of the first article is thus expressed: "The Senate of the United States shall be composed of two Senators from each State." Two Senators then from each State are declared to constitute a Senate. A Senate of the United States cannot, therefore, be composed but of two Senators from each State. One House referred to in the fifth article is the Senate. If then it be necessary that there should be two members from each State to compose a Senate, the House of the Senate cannot be composed but of two members from each State. This is corroborated by other parts of the Constitution. In the fifth section of the first article, it is said, "Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business." A majority of each—Of what?—Of each House shall constitute a quorum to do business. The expression is a fair commentary on the other section which I have read: "A majority of each House shall constitute a quorum to do business." The inference is that the Constitution, when it declares that "the Congress, whenever two thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution," requires that the proposing them shall be made by two-thirds of the whole number of members constituting the Senate.

There are cases in the Constitution where the concurrence of two-thirds of each branch of the Legislature is required for the performance of certain acts, which is a further commentary on this article of the Constitution. In the case of impeachments it is provided that the Senate shall try all impeachments; but no person shall be convicted without the concurrence of two-thirds of the members present. The word *present* is introduced. For what purpose, if it was not the opinion of the framers of the Constitution, that without it, two-thirds of all the members of the body would be necessary to a conviction?

The same expression is used in the case of treaties. The President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." Why use here this expression, "two-thirds of the Senators present," unless it was considered necessary to qualify the expression, from the conviction that otherwise it would mean two-thirds of the whole body?

On this ground I apprehend that this resolution has not come constitutionally before us. It has not passed the Senate with the concurrence of

two-thirds of the whole body. It has only received the votes of twenty-two Senators, which do not make two-thirds. I, therefore, move that the Committee of the Whole be discharged from the further consideration of it.

Mr. J. RANDOLPH.—There are frequent occasions on which it is necessary to answer doctrines advanced, not on account of their intrinsic merit, but on account of the weight of character of those by whom they are advanced. This is one of those cases. Had the arguments delivered to-day by the gentleman from Connecticut fallen from a less respectable quarter, I should have deemed them unworthy of reply, and have satisfied myself with a silent vote.

The gentleman, with an ingenuity peculiarly unfortunate, has quoted the very clauses and sections of the Constitution which disprove the opinions he has advanced. To these I beg the attention of the House for a moment. He has attempted to sustain the position that two-thirds of both Houses must imply two-thirds of the whole number of each House respectively. If I have misstated the gentleman, I beg to be corrected [Mr. R. here paused.] As there is no disposition to correct my statement, I presume I am correct. If this be the case, are we at this moment a House? If the term House means the whole number of members, can there be a House unless the whole number are present? Can there, therefore, be a House or a Senate so long as a single member is absent?

But it is said that the Constitution, wisely foreseeing this dilemma, has provided that a majority of each House, shall constitute a quorum to do business. Now, I ask, is a majority a quorum or a House? If it is not a House, but merely a quorum, it will be absolutely necessary that we alter our language as well as our journals, and say, not that the House, but a quorum met to transact business, &c.

"Each House may determine the rules of its 'proceedings, punish its members for disorderly 'behaviour, and, with the concurrence of two-thirds, 'expel a member.'" Will the gentleman hold, on this floor, that it requires two-thirds of the whole body to expel a disorderly member? Will he deny that two-thirds of those present may expel in such a case, and that they are competent in all cases mentioned in the Constitution? I will call the attention of the House to a fact. The session before the last, the House passed an amendment to the Constitution, similar in principle to the present, by the votes of two-thirds of the members present; when, too, there was little more than a bare quorum present. I might answer the doctrine, advanced this day, by saying the practice under the Constitution is already settled. I might ask the gentlemen where was this Constitutional objection then? Why was it then permitted to do so unconstitutional an act, when there was but a bare quorum? I should be glad to receive to these questions a satisfactory answer.

"Each House shall keep a journal of its proceedings, and from time to time publish the same, 'excepting such parts as may in their judgment require secrecy; and the yeas and nays of the mem-

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'bers of either House on any question, shall, at the desire of one-fifth of those present, be entered on the Journal.' Now, according to the doctrine of the gentleman, unless the whole body is present, the yeas and nays cannot be entered, because there is no House unless all the members are present.

The gentleman inquires why the Constitution has so sedulously directed that in certain cases the concurrence of two-thirds of the members present shall be required. For an obvious reason. The Constitution could not ascertain the number of which the two Houses would consist, from their varying numbers, and, therefore, has required, that in certain cases, two-thirds of those present shall be required.

The article of the Constitution, on which the gentleman relies, is, that "Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments." When two-thirds shall deem it necessary. The sense then in this case is to be determined by the exposition given to the term House. I again ask, have or have not the House met to-day? They have. I ask, are we, so met, the House of Representatives? We undoubtedly are. I ask, whether it is not in order to move to expel a disorderly member, or to adjourn? And I ask if the solemn business on which we are now acting shall be defeated by a mere play upon words, that would much better fit a subordinate court than this body? Believing that no doubt can be entertained of the just meaning of this article of the Constitution, either by the House or by the nation, I hope the Committee of the Whole will not be discharged.

Mr. LOWNDES.—I agree with the gentleman from Virginia that we are a House. The Constitution says, that a majority shall constitute a quorum, for the performance of ordinary business. But it appears to me very doubtful whether less than two-thirds of the whole members of each House can pass an amendment to the Constitution. It is possible that the practice of the House heretofore may settle the point. I hope therefore the House will refer it to a select committee, to obtain its investigation. Until I took my seat I was not aware of the objection; but, since I have considered the subject, it does appear to me that two-thirds of the whole members are necessary in this case. I will assign my reasons for this opinion. The framers of the Constitution, I have no doubt, intended to oppose difficulties to the alteration of it, and therefore required the previous concurrence of two-thirds of the whole members of each House, and three-fourths of the Legislatures of the respective States. And they did this very wisely. Without the existence of such obstacles to a change, not a session of Congress would pass away, without materially altering the national compact. If this construction be adopted, the result will be certain, and it will be in the power of every man to ascertain it. If it is not, the result will be perfectly uncertain. For even less than a majority of the whole body may, in such case, propose amendments. A majority of 34 is 18. Eighteen, therefore, is a majority of the Senate to do ordinary business. Two-thirds of eighteen are twelve,

which is less than a majority of all the members of the Senate. If, then, the doctrine of the gentleman from Virginia prevail, less than a majority of all the members of the Senate and House of Representatives may propose amendments. This is not, in my opinion, the spirit of the Constitution. For these reasons I am in favor of the motion, with a view that the subject may be referred to a select committee.

Mr. EUSTIS.—If the construction of the gentleman from Connecticut be correct, I will ask how it can be reconciled with the practice under the Constitution, in the case of bills on which the President has put his veto. In the 7th section of first article it is provided that "every bill which shall have passed the House of Representatives and the Senate, shall, before it become a law, be presented to the President of the United States; if he approve, he shall sign it; but if not, he shall return it, with his objections, to that House in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two-thirds of that House shall agree to pass the bill, it shall be sent, together with the objections, to the other House, by which it shall likewise be reconsidered, and if approved by two-thirds of that House, it shall become a law." I will ask, if, according to the construction of the gentleman from Connecticut, it will be in the power of the two Houses, in any case, to pass a bill, having thus received the President's veto, unless they consist of the full number of members, which I believe will never be the case. It appears to me that a bill under such circumstances can never pass. But this doctrine does not rest here. For, by the Constitution, amendments shall be proposed whenever two-thirds of both Houses shall deem it necessary. Now, if this doctrine applies to this Legislature, that it must be full, it appears to me that the same requisition will apply to the Legislatures who are finally to adopt the amendments proposed by Congress. Has it ever been known that either this Legislature, or the Legislatures of the States, were completely full? Consequently the doctrine renders it impossible for any amendment ever to be carried.

Mr. THOMAS rose to state, from the Journals of the Senate, in what light they contemplated the doctrine advanced by the gentleman from Connecticut. By the Journal of their proceedings in the year 1789, it appears that on amendments, made by the House of Representatives, a concurrence was voted, though there were only sixteen members out of twenty-six present. There did not appear to be any division on the passage of the amendments; but the entry was in this form:

"IN SENATE, Sept. 9, 1789.

"Resolved, That the Senate do concur in the resolve of the House of Representatives, on 'Articles to be proposed to the Legislatures of the States, as amendments to the Constitution of the United States,' with the amendments, two-thirds of the Senators present concurring therein."

Mr. SMILIE.—It is well enough to understand what is meant in the Constitution by the term

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House. I believe that the general rule prescribed is, that a majority of the House is capable of doing business. What business? All that is not specially excepted. I believe also that it is a sound principle that, whenever there is an exception to a general rule, it shall be construed strictly, and not be suffered to contravene the general rule but in the case of the exception. By Congress, then, is meant the two Houses in their organized forms, in which forms they are fully competent to all business, except in cases where more than a majority is required. To this there are two exceptions, viz: in the case of treaties, and the election of a President, wherein a quorum is made to consist of a member or members from two-thirds of the States. There is also another exception in the case of impeachments. What is the reason, if it is the intention of the Constitution that in proposing amendments there should be two-thirds of the whole number of Senators elected present, it has not told us so, as explicitly as in the case of impeachment, in the case of treaties, and the election of a President, it has provided the rule? Gentlemen should likewise reflect how far this doctrine carries them. They ought to consider that it is possible that, under their construction, no amendment made to the Constitution is valid. If some are, it is pretty certain that others are not.

MR. THATCHER.—I have examined the Constitution as carefully as time will permit, in every instance in which the Senate is mentioned as a House. The Senate is defined as "composed of two Senators from each State." In this article there is a complete definition of the Senate. But there are two instances in which the members present are particularly designated. The first is in the last part of the third section, in cases of impeachment: "The Senate shall have the sole power to try all impeachments." "No person shall be convicted without the concurrence of two-thirds of the members present." The other instance is in the second section of the second article: "The President shall have power, by 'and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur." In these two instances the only allusion is to the members present. The other instances in which the Senate is mentioned as a House are three. The first is in the case of the expulsion of a member: "Each House may, with the concurrence of two-thirds, expel a member." Another instance is that in which the President puts his veto upon a bill. This part of the Constitution has been already read, and I need not repeat it. The last is the one under consideration: "The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments." I believe that, in this clause, it is intended by the Constitution that two-thirds of the Senate, composed of two members from each State, should concur; that is, two-thirds of the whole body.

The idea of the gentleman from South Carolina (MR. LOWNDES) has struck me very forcibly. He says that, under the construction attempted to be put on the Constitution, twelve members of

the Senate will be sufficient to propose amendments. The same doctrine will apply to this House, where forty-eight members may propose amendments, although seventy-two are required to make a common quorum. Gentlemen will see at once that this could not have been the intention of the framers of the Constitution. But my colleague (MR. EUSTIS) says that, if our construction prevail, whereby the concurrence of two-thirds of the whole of the members of each House is required, the same construction will extend to the State Legislatures. But the article in the Constitution does not warrant this conclusion. Its language is, that amendments shall be valid "when ratified by the Legislatures of three-fourths of the several States." There is no idea expressed that the concurrence of two-thirds of the Legislatures shall be necessary. Hence, I see no weight in this remark.

MR. EUSTIS explained. He had no idea that two-thirds of the State Legislatures were required; but he had said that the House might, with the same propriety, require the sanction of two-thirds of all the members of the State Legislatures as of the other branch of Congress.

MR. THATCHER proceeded. The gentleman from New York (MR. THOMAS) is equally unfortunate. By recurring to the Journals of the Senate for the year 1789, it will be found that several States were not then in the Confederacy. Rhode Island, North Carolina, and Vermont, were not then in the Union.

MR. THOMAS explained. He said he had referred to the Journals of the Senate to show that, by declaring amendments carried by two-thirds of the members present, they had considered two-thirds of the members present a Constitutional majority.

MR. THATCHER.—The gentleman from Pennsylvania has cautioned us against going too far. Caution, I would myself advocate. He says the amendments heretofore adopted are not valid, in case our construction be just, inasmuch as they were passed by less than two-thirds of the whole members of each branch. But he has shown no precedent. Such precedent it is incumbent on gentlemen to advance. There is none within my knowledge.

MR. J. RANDOLPH.—I rise to adduce the precedents the gentleman calls for. They will be found in the Journal of the House of Representatives, under the date of August 21, 1789. Congress then consisted of the thirteen original States, excepting Rhode Island and North Carolina. It will be found that the whole number of members of the House of Representatives at that time was fifty-nine. Of those fifty-nine, forty composed two-thirds. By turning to the Journal the gentleman will perceive that some of the most important amendments that now form a part of the Constitution were passed, not by forty members, but by two-thirds of the members present. Among these amendments are the following:

"Congress shall make no law establishing religion, or prohibiting the free exercise thereof, nor shall the rights of conscience be infringed."

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"The freedom of speech and of the press, and the right of the people peaceably to assemble and consult for their common good, and to apply to the Government for the redress of grievances shall not be infringed."

"A well-regulated militia, composed of the body of the people, being the best security of a free State, the right of the people to keep and bear arms shall not be infringed; but no one religiously scrupulous of bearing arms, shall be compelled to render military service in person."

"No soldier shall, in time of peace, be quartered in any house, without the consent of the owner; nor in time of war, but in a manner to be prescribed by law."

"The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated; and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly the place to be searched, and the persons or things to be seized."

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial; to be informed of the nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence."

These are by far the greater number of amendments that now exist, and which, according to the doctrines of gentlemen, compose no part of the Constitution, and ought to be expunged from our records. I hope the House is not disposed to countenance such a doctrine.

MR. G. W. CAMPBELL.—I do not rise to inquire into the intrinsic merits of the arguments advanced by the gentleman from Connecticut, but to demand by what authority we make the inquiry into the vote given by the Senate on this occasion. We have received a resolution from the Senate in a regular way, by which it appears to have been passed by a Constitutional majority. I am at a loss to know how the gentleman can ascertain that it is not passed by a Constitutional majority. I believe each House is a judge of its own proceedings; and I believe that, when a resolution or bill comes to this House under the usual forms, we are bound to consider it as passed conformably to the Constitution.

MR. C. said he believed, by an examination of the Constitution, it would be found that the word Senate was used barely to designate the number of members to which each State was entitled; and that when they came to do business they were called House. In the fifth section, the term House is used in three places. In the first, it is stated that "each House may determine the rules of its proceedings." Here the word House must mean a quorum.—"Each House shall keep a Journal," &c. The meaning, here, likewise, of House must be a quorum. There is another instance not noticed by gentlemen—"Neither House, during the session of Congress, shall, without the consent of the other, adjourn for more than three days," &c. I will ask if the sole question is the definition of the word House, whether this single paragraph will not clearly establish it? Can it be said with any degree of plausibility, that in

this instance, the word House means anything more than a quorum? Certainly the word in the fifth section means the same thing, unless there is some restrictive language attached to it, which is not to be found. I believe also that the construction proper to be given on this, as well as on other occasions, ought to comport with the practical sense of mankind.

MR. DANA.—The gentlemen asks by what authority we examine the manner in which this resolution has passed the Senate. I will endeavor to answer the inquiry. The Constitution says each House shall keep a journal of its proceedings. The Senate keeps a journal, which is public, and from that we are enabled to ascertain the fact how it passed. This is a sufficient authority to inquire. The question, I apprehend, to be decided is, whether two-thirds of a House can be less than a majority? Frequent reference has been had to the fifth section of the first article of the Constitution; "A majority of each House shall be a quorum to do business." What then is the majority? A majority of the whole. When the Constitution in another place requires two-thirds, will it be said that two-thirds is less than a majority? In examining the Constitution it will be found that it is not the ordinary business of Congress to amend the Constitution; it is not a usual Legislative power; it is an unusual power for those with limited authority to change or extend or limit their own power. In doing this, then, Congress does not act in their Legislative capacity. In all instances in which they do act in such capacity, their acts must be submitted to the President for his approbation. Whereas in proposing an amendment to the Constitution this is not necessary. Why? Because the measure does not partake of Legislative character; it is in virtue of a special grant of power. As then in this case there is a complete deviation from the ordinary authority of Congress, as there is a deviation from the principle of the Constitution which confers limited powers, as there is a deviation from the general principle of agency, it ought not to authorize a change but on the agreement of a majority of the whole members composing the confederacy. To the gentleman from Massachusetts (MR. EVERTS) I answer that there is no precedent of a bill passed, returned by the President with his veto. The question is the same in that case as in this. There is no precedent for either; that it is undecided; and to settle one case which is undecided, reference is had by gentlemen to a case equally disputed. These are the principal ideas which have occurred to me, in addition to those suggested by others, and which I forbear to repeat.

MR. THATCHER said that in the cases alluded to by the gentleman from Virginia (MR. RANDOLPH) the yeas and nays were not taken; it, therefore, did not appear what the majority was. He admitted, that from the language of the Journal, the Clerk of the House entertained the idea that the concurrence of two-thirds of the members present was sufficient; but such an opinion was not binding upon them.

Mr. RODNEY.—Notwithstanding the respect I entertain for the opinion of the gentlemen who support this construction of the Constitution, it seems to me to be utterly without foundation. The ideas of the gentleman from Tennessee (Mr. CAMPBELL) are, I think, conclusive. That gentleman asks by what authority we inquire into the proceedings of the Senate, of which they are exclusively the Constitutional judges? It is replied that they are obliged to keep a public journal and that it appears therefrom that this amendment has not received the votes of a Constitutional majority. Is this a fair answer? By the Constitution each House may determine the rules of its own proceeding. If the Senate then have a right to decide on their own rules, they are the only competent judges whether the amendment has been approved by the number which the Constitution requires. On what foundation is this objection taken? Do we know the proceedings of the Senate but through the medium which the Constitution has provided? We have received then this amendment to the Constitution through their legitimate organ, the Clerk. He has in due form notified us of its passage. And to-day we are told, on the evidence of his certificate, that the Senate has not passed it at all, or what is the same thing, that they have not passed it by a Constitutional majority. Now, are we to believe the information we have received from the Senate in the regular and established way, or are we to take their proceedings on a certificate given to a member of this House? Are we to take this information from them, or are we to send a committee to watch their proceedings, and are they to send a committee to watch ours? Surely there is a respect due to the Senate when they transmit to us a resolution declared to be adopted by them, by which we are bound to give credit to it. If this is not the case, all intercourse between the two Houses must be stopped. For if the Senate are to watch us, to determine by what majority and in what manner our acts are passed, and we do the same in relation to their proceedings, we may consume the whole time of the session in discussing these previous questions, without reaching the merits of the measures proposed. These ideas appear to me conclusive. The Constitution is predicated on the existence of a principle of moral integrity in the two Houses, and without such confidence in them, it cannot exist for a day.

But taking the fact, as the gentleman from Connecticut has stated it, I think this resolution has passed the Senate by a Constitutional majority. The gentleman contends that it has not, because it has not received the assent of two-thirds of all the Senators elected; he says that when the Constitution requires the assent of two-thirds only of the members present, we always find it expressly so stated, whereas when it requires two-thirds of either House, it merely calls for two-thirds of the members; and he contends that there is here a wide distinction and essential difference in the meaning. But all this arises from a mere play upon the term House. That term, according to the gentleman, is of wonderful import! He has

now discovered that at the first organization of the Government, when every sentiment that gave it birth was fresh on the recollection, when we find among others two venerable members from the State of Delaware, members of the Senate and likewise members of the Federal Convention, giving their assent to amendments to the Constitution, all these proceedings were unconstitutional. How was the assent of the two Houses to these amendments given? Was it by two-thirds of all the members of each House? The Journal proves the reverse to have been the fact. It expressly says they were adopted by two thirds of the Senators present concurring. It is said, however, that this is only the record of the Clerk, and that it shows no more than his opinion. But this is not so. For it is the practice of each House, on the next day, to read the Journal of the proceedings of the antecedent day, and if there be errors to correct them. Now, if we look to this record, at a period immediately after the adoption of the Constitution, we shall find that in September, 1789, it is declared on the Journal of the Senate that amendments passed, and which are now part of the Constitution, were ratified by two-thirds of the members present.

I have ever understood it to be a sound rule of construction, because a sound rule of reason, that a construction of an instrument once received shall not be changed, even if the construction be not so proper as might be given. As then it appears that such was the construction given to the Constitution by many of the members whose labors contributed to its formation, and who may, therefore, be considered as the most perfect masters of its true meaning, shall we at this distant day undertake to give a different construction? Shall we say that we are wiser than all who have gone before us, and expunge from the Constitution those amendments, which have been proposed by two-thirds of the members present of each House, and have been afterwards ratified by three-fourths of the States?

I believe this construction to be the true one. In the Constitution the term House means merely a majority of all the members; and an examination of that instrument will show them that House and Quorum are convertible terms. "Each House shall be the judge of the elections, returns, and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner and under such penalties as each House may provide." According to the distinction of gentlemen a majority shall be a quorum. Thus a majority, being assembled, may proceed to business. Now let us see how we are to separate. We must, according to the arguments of gentlemen, work night and day until we get the whole members present. We have, therefore, been transgressing the Constitution every day we have met. We have made rules, by a great quorum, it is true, but every member was not present; and if every member were not present it was not a House, and therefore

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we had no right to form rules! And yet every gentleman knows that some rules are indispensably necessary. "The yeas and nays of the members of either House on any question, shall, at the desire of one-fifth of those present, be entered on the Journal." Therefore, we cannot have the yeas and nays entered unless every member be present! "Neither House shall, without the consent of the other, adjourn for more than three days." In every clause of this particular section the term House is made use of. The House is to determine its rules, and to keep a journal. Gentlemen then must admit, if they are right in their construction, that, without the presence of every member there can be no rules and no journal, and that though we are obliged to keep working without rule or record, yet we cannot adjourn. Is this, Mr. Speaker possible? Do gentlemen seriously contend for such an absurdity?

Gentlemen have referred to a section of the Constitution where two-thirds of the members present are required, and to other sections where a different language is used; and have thence inferred that a different meaning was intended. But I believe we may use different terms and yet mean the same thing. In the case of treaties and impeachments different language is used to convey the same meaning. If then in these cases different language is used to mean the same thing, will not the like liberty be allowed in other cases? I do not know that the framers of an instrument are bound to use on all occasions the same words to convey the same idea, more than the members of this House are.

Mr. DENNIS.—This, sir, is a motion to discharge the Committee of the Whole from the resolution of the Senate, on the ground that that resolution comes to this House unsupported by such a Constitutional majority, of two-thirds of that body, as is requisite to amend the Constitution. It therefore becomes necessary incidentally to discuss the point, whether a majority of two-thirds of the attending members, or of the whole number of Senators, be necessary, to give validity to the proposed amendment; for if this resolution is not supported by the Constitutional majority, it is a nullity in itself, and the sooner we are discharged from it the better.

But here we are met in the outset by an objection from the gentleman from Delaware, which ties up our hands and precludes us from this investigation. I incline to think that gentleman hazarded the position without that deliberation and caution to which he is accustomed; for his argument would go to the extent, that if this resolution had passed by a bare majority of the Senate and was reported by their Secretary as passed by the Constitutional majority, it would be so conclusive upon us, that we should not have a right to assert the negative. Whatever is done by the competent authority, ought to be presumed to be rightfully done, but this presumption ceases when the negative appears. According to our construction of the Constitution, the negative does expressly appear, for we know the resolution was passed by a less number than a majority of two-thirds of the

members of that body. Notwithstanding the objections made to the evidence, independently of the personal knowledge of the members of this House, we have a transcript from the Journal of the Senate, under the official signature of their Secretary, which I had thought was as good evidence as could reasonably be required.

In relation to the Constitutional question, perhaps little can be added to the remarks of the gentleman from Connecticut (Mr. GRISWOLD,) because I think the passages cited from the Constitution by that gentleman, and the deductions drawn from those passages, demonstrate the proposition which he contends for; which is, not that every member of the Legislature should be present, as some gentlemen suppose, but that there shall be a sufficient number present, voting in the affirmative, to amount to a majority of two-thirds of all the members. If we look into the Constitution we shall find in the first section, it declares all Legislative power shall be vested in a Congress, consisting of a Senate and House of Representatives. It then says, "that the House of Representatives shall be composed of members chosen every second year by the members of the several States," &c. In the third section it says, "the Senate of the United States shall be composed of two Senators from each State," &c. And in the clause respecting amendments, it says, "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution," &c. It then results from these provisions that unless the House of Representatives or Senate, taken distinctly, are bodies composed of less than all their parts and members; and that Congress, which is composed of a junction of the two, may be composed of a less number than all the members of each House, that this resolution which is passed only by a majority of two-thirds of the attending members, and not of all its members, is not passed in conformity with the amendatory clause of the Constitution.

But we are told that if this be the construction of the Constitution, we are violating that instrument every day, in passing laws by a majority of the attending members. But, sir, the gentlemen ought to remember that this is in consequence of a positive grant in another part of the Constitution, which says that "a majority of each House shall constitute a quorum to do business." What business? Their ordinary legislative business, where a simple majority is only necessary to effect it. But surely no man can suppose that the clause last cited is to be applied to any case except to the legislative power which that clause proceeds; or can torture it to have an application to a provision in the latter part of the instrument, wholly unconnected with it, and where two-thirds are necessary to give validity to an act. For if any doubt could exist on that subject, it will be removed by advert- ing to the clause respecting the treaty-making power and the power of impeachment; where two-thirds must concur, and where it is confined to two-thirds of the members present. The using of the word *present* in these clauses proves, that the Convention conceived that unless in these cases they



had expressly confined it to the attending members, two-thirds of the whole number would be requisite to a decision; and it also proves, that having omitted the word present in the important article of amendment, they did not mean, in that case, that less than a majority of two-thirds of the whole should be competent to act. To my mind it is impossible that a stronger implication can arise, than what results from these clauses, to prove that wherever they spoke of a majority of two-thirds as being necessary to act, they meant what every person must conclude, that it must be a majority of two-thirds of the whole, unless where they expressed themselves to the contrary. Nor is this construction at all affected by any of the precedents cited; for all of them relate to acts of ordinary legislation, except the case cited by a gentleman from New York (Mr. THOMAS,) and another by a gentleman from Virginia (Mr. RANDOLPH.) The first proves nothing; because it appears that there were sixteen members present and no division on the question, and the whole of them may have voted in the affirmative; and as North Carolina and Rhode Island had not come into the Union at the time, the whole number of Senators was but twenty-two—so that sixteen was a majority of two-thirds of the whole. The same answer may be given to the other; for at that time this House consisted of fifty-nine members, and forty-nine members were present and voted on the question, upon which no yeas and nays were taken, and all of whom, from aught that appears to the contrary, may have voted for it. From this view of the subject, therefore, I conceive the resolution before us has not received the support of a sufficient number of the Senators, and I shall vote to discharge the Committee of the Whole from the further consideration of the subject.

Mr. J. CLAY.—The gentleman last up from Maryland, and the gentleman from Connecticut, have undertaken to draw a distinction between ordinary Legislative business and other business confided to Congress. In the third section of the Constitution, the power to try impeachments is given to the Senate and to the Senate alone. If the construction of the gentleman obtain, it is given only to the whole body, as this power is not conferred upon them in their ordinary Legislative capacity: "The Senate shall have the sole power to try impeachments; when sitting for that purpose they shall be on oath or affirmation. When the President of the United States is tried the Chief Justice shall preside, and no person shall be convicted without the concurrence of two-thirds of the members." There are a great number of formalities which show the intention of the Constitution to draw a distinction between this power and the powers of ordinary legislation. The section concludes by saying that no person shall be convicted without the concurrence of two-thirds of the members present. Now, if the word Senate did not in all cases mean the members present, these powers will be exercised in direct contravention of the Constitution.

The last article of the Constitution is, that the ratification of the conventions of nine States

shall be sufficient for the establishment of this Constitution between the States so ratifying the same." These conventions are bodies raised under the Constitution, by which no quorum is provided, and, under the construction contended for, must mean the whole bodies by which it has not been ratified. If the construction then be correct, the Constitution can be of no effect, unless it has been ratified by them unanimously, which has not been done.

When we use such terms as House, people, or quorum, we always mean a majority, otherwise we should run into absurdity; and gentlemen will see, that in all cases where the terms are not restricted, they mean a majority, and that in other cases where a different meaning is intended, restrictive language is used.

In that part of the Constitution respecting the election of President, if the construction of gentlemen be sound, the words "whole number" are superfluous; it prescribes "that each State shall appoint, in such manner as the Legislature thereof shall direct, a number of Electors equal to the whole number of Electors for Senators and Representatives to which the State may be entitled in the Congress." The word State does not here mean all the people, but a majority of them exercising political power through the members of their Legislature.

In the case of the President refusing to approve a law, the words are the same as in the present instance. In such a case I should suppose the Legislative bodies were sitting in their Legislative capacity; and in such case, notwithstanding, according to the ideas of gentlemen, two-thirds of the attending members would be insufficient to pass the law.

In the case of the amendments agreed to in 1789, sixteen members were present. The gentleman from Maryland (Mr. DENNIS) has stated that the whole body consisted at that time of twenty members; but the fact is, it consisted of twenty-two, two-thirds of which are fifteen. Sixteen were present. I find the amendments were opposed by some members, and gentlemen will agree with me, that where members are in the habit of opposing measures they will not be likely to vote for them. The inference is that some of the sixteen voted against the amendments on their final passage. I ask if the fair inference be that only one member voted against them? If more than one voted against them, according to the doctrine of gentlemen, they were not constitutionally passed, and therefore we are legislating under amendments to the Constitution, which are not part of the Constitution, inasmuch as they were not constitutionally proposed.

Mr. R. GRAISWOLD.—The first objection made by gentlemen to the motion which I have had the honor to submit is, that this House has no right to inquire into the fact of how the Senate passed the resolution on our table. It is said by the gentlemen from Tennessee and Delaware, that we had no right to inquire further than into facts as they appear on the face of the resolution. This doctrine I did not expect. What is the res-

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olution? Is it anything more than a record of the proceedings of the Senate? Is not the Journal of that House also a record? And suppose, instead of receiving this resolution, as we have received it, without information of the yeas and nays on its passage, the Senate had sent us a record of those yeas and nays, would the gentleman then say that we had not a right to draw an inference for ourselves as to whether it was or was not passed by a Constitutional majority? The Secretary in this case has only brought us part of the record. When we see the whole, we perceive how it has passed, to wit: twenty-two members voting in the affirmative, and ten voting in the negative; and whether the whole record is brought by the Secretary, or whether we receive it in any other way, is altogether immaterial. For from the whole record we must at last decide. This is a sufficient answer to the comments of gentlemen. We have a right to view the whole record, and to determine from it whether this resolution has been regularly passed.

The next objection is, that precedent is against us. But the fact is, that when the amendments alluded to by gentlemen, were passed in the Senate and House of Representatives, all the members were not present; and instead of taking the yeas and nays on them, the Secretary of the Senate and of the House made a record that they were agreed to by two-thirds of the members present. Gentlemen infer from this fact that they were not passed by two-thirds of the whole members, but I do not perceive how they draw the inference. I admit that it was assumed by those who made up the journals, that all that was necessary was the concurrence of two-thirds of the members present; but it does not appear whether two-thirds of the whole members did or did not concur. This precedent therefore concludes nothing. Hence we are brought back to the Constitution, to put our own construction on its several provisions; and I submit it to the House, whether its language is not clear, plain, and definite. The fifth article requires the concurrence of two-thirds of each House. What is meant by House? It must mean either a quorum to do business, or the whole of the members. To determine what it means we must refer to the Constitution, and see how the term is there used. The first expression of it is the third section, "the Senate shall be composed of two Senators from each State." This is perfectly clear and definite; you cannot compose the Senate in any other form. But gentlemen say that the term Senate is used in a different sense from the term House, and in one the meaning is different from that in the other. If gentlemen will turn to the fifth section of the first article, they will find this language: "Each House shall be the judge of the elections, returns, and qualifications, of its own members, and a majority of each shall constitute a quorum to do business." What is meant by a majority of each House? Barely a majority of a majority! This is nonsense; the term House then means every member; it is clear that such was the meaning of the framers of the Constitution. I say, therefore,

that when these parts are taken altogether, we obtain a clear and definite construction of what they meant by the terms House and Senate.

It is true there are some instances in which House means a quorum, such are the cases in which ordinary business is transacted, in which the House adjourns or expels a disorderly member. The words are there synonymous, yet in its strict meaning the word House means the whole number of members, and all cases where it is intended to have a different meaning are provided for by the Constitution. In the fifth section of the first article it is said, "the yeas and nays of members of either House on any question, shall, at the desire of one-fifth of those present, be entered on the Journal." Why introduce this language? For the plain reason that without it one fifth of the House, that is of the whole number of members, would be required. This construction comports with the just remark of the gentleman from Pennsylvania (Mr. SMITH) that every exception to a general rule should be construed rigidly—that is, in the present instance, without an exception, one-fifth of the whole of the members will be required. So in the case of impeachments and treaties, unless the expression were two-thirds of the members present, the concurrence of two-thirds of the whole would be necessary. Gentlemen will see in all these cases, as the honorable member from Pennsylvania says, the exception proves the thing. While there is no restriction to two-thirds of the members present, or to a majority, the Constitution must be construed according to the general principle.

It is not my wish to detain the House longer on this subject. I have expressed myself in general terms. I add, that it is proper, that in an affair of such importance, we should proceed with deliberation and caution. The subject is a new one, and it can do no harm to discharge the Committee of the Whole and take it up seriously. Some gentlemen are of opinion that there are precedents which apply to the elucidation of this point; if the committee shall be discharged, they will have time to search for them, the resolution can be referred to a select committee, the journals be examined, and the House enabled to proceed with caution and deliberation.

Mr. ROONEY stated two precedents, in his opinion, in point. One of which took place in May, 1802, in the House of Representatives, on an amendment to the Constitution embracing the same principle with the present. The House then consisted of one hundred and six members, two-thirds of whom were seventy-one. By the journals it appeared that an engrossed resolution of an amendment passed—yeas 47, nays 14.

Another precedent fresh in the recollection of gentlemen, had been made this session. An amendment containing the same principle had passed that House; the whole number of members of which was 140; of which ninety-five constituted two-thirds; and yet it would be found that it passed by 88 votes for, and 31 against it.

Mr. LOWNDES replied that the amendment which had passed this House in 1802, had been

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agreed to in great haste at the close of a session; the act was inadvertent, and therefore was not entitled to much weight.

Mr. HUGER required the taking of the yeas and nays; at about 4 o'clock the question was accordingly taken—yeas 34, nays 85, as follows:

**YEAS**—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, Peleg Wadsworth, and Lemuel Williams.

**NAYS**—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, P. Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryant, Wm. Butler, Geo. W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Caesar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

And then the House adjourned.

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WEDNESDAY, December 7.

#### AMENDMENT TO THE CONSTITUTION.

Mr. J. RANDOLPH called for the order of the day on the amendment to the Constitution, received from the Senate.

Mr. HUGER moved to postpone the order of the day. He observed that he had very seldom, since he had the honor of a seat in the House, originated business. It was contrary to his habits to obtrude himself upon the House; and he would not undertake the task of originating business but from a strong impulse of duty. He was against altering the Constitution; but as it was probable that an alteration would be made, he considered it his duty to render it as little prejudicial as possible. This he believed would be the case, if the resolution he had laid on the table for dividing the United States into Electoral districts, was incorpo-

rated into the resolution from the Senate. He found that this resolution had been proposed not only by the Legislature of New York, but likewise by the Legislature of South Carolina. It had also been submitted in a former Congress by a respectable member from a respectable State, (Mr. NICHOLAS.) Mr. H. said that this could not be considered as a party question, as it was probable the Federal party would lose strength by its adoption; it was probable the members on that side would oppose the amendment. The principal hope of success was from the aid of those who generally differed from him in political sentiment. Mr. H. concluded by moving a postponement of the order of the day till to-morrow, to enable him in the mean time to submit the resolution for Electoral districts.

Mr. G. GRISWOLD agreed with the gentleman from South Carolina, that it was important that both amendments should go to the same committee. He was in favor of the amendment for districts—not, however, because he considered himself bound by the instructions of the Legislature of New York, given long since. On a former occasion, when this subject was before the House, some of his colleagues had thought themselves bound by those instructions, and had expressed astonishment at his resisting them. He was not disposed to question the correctness of their opinions, but for himself he could never consent to be bound by such instructions against the dictates of his own judgment. He was not the representative of a Legislature, but of a section of the people, and did not represent the State, but those combined with other sections of the people. He had a right then to express his own opinion. It so happened, however, that this resolution for electoral districts accorded with his own opinion, and therefore he should advocate its adoption. According to the reasoning of gentlemen, this resolution should be considered as the first in rank, as it was first named in the resolutions agreed to by the Legislature of New York. Will gentlemen who advocate the last, (embracing the principle of designation,) reject the first, or neglect to pay it the same attention with the first? He should consider the vote against postponement as a virtual vote against the first resolution. Is it not fair and proper that both these points of amendment should go to the same committee, as they both relate to the same subject? He was in favor of the division of the United States into electoral districts, as it carried to the people directly the election of Electors, which is now three degrees removed from the people, whereas by the amendment it would be only two degrees. We may be told that the Legislature of New York may, under the Constitution, if she pleases, district the State; and we may be asked why she does not do this if desirable. This question Mr. G. could not undertake to answer. Gentlemen of similar political sentiments with the majority of that Legislature can best answer it. He could only say that, if in the Legislature, he should be in favor of it. Mr. G. concluded by saying he was not in favor of altering the Constitution at all, with regard to the

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election of President, but if it were altered, he was in favor of uniting the amendment for electoral districts with that on the table. He should therefore vote for the postponement.

Mr. ELLIOT did not rise to reply to the arguments of gentlemen, but merely to express his surprise that those who wished no amendment whatever, should thus labor to defeat the wishes of the House. He had expected that one amendment to the Constitution would have been sufficient for a session. Yet we had sent one to the Senate where it reposed, and in return they had sent us three. If these are not enough, where are we to stop? He hoped gentlemen would not add another until these had been acted on.

Mr. RODNEY only rose to say that he was in favor of dividing the United States into districts, but was decidedly against an amendment to that effect being incorporated with the one on the table, lest by grasping at too much they might lose all.

Mr. G. GRISWOLD did not perceive how the agreeing to the amendment for electoral districts could embarrass the present amendment, as it was in the power of the different State Legislatures to agree to a part, if they saw fit, and not the whole.

Mr. THOMAS observed that, in legislating, he had always been adverse to incorporating different subjects in the same bill or resolution; because he thought each should stand on its own bottom. He said the resolution sent from the Senate proposes an important amendment to our Constitution, and the one which his colleague, (Mr. G. GRISWOLD,) and the gentleman from South Carolina, (Mr. HUGER) wishes considered, at the same time proposes another important amendment. Although he was in favor of both, he considered it highly improper to blend them together. He thought each ought to stand or fall on its own merits. My colleague, said Mr. T., appears to have a high reverence for the people's opinion, in affecting to support this amendment at this moment; but why has he suffered this zeal to slumber for these five or six weeks, since which this House passed a resolution similar to the one sent from the Senate? Why did he not call this up before? Why has he suffered this thing to sleep all this time, and at this moment urge its being taken up with such warmth? I am unwilling, Mr. Speaker, to impute to gentlemen improper motives for their conduct, but I must confess this looks too much like an intention to embarrass and procrastinate the passage of the other amendment to admit of a doubt.

I am, said Mr. T., decidedly against considering this proposition at this time. Let us take up the one sent down from the Senate, and when that has been agreed to, as I trust it will be, and sent out to the States for their consideration, I pledge myself to those gentlemen that I will unite with them in not only considering, but will support the other proposition.

Mr. MITCHELL said he felt it incumbent on him to offer a few remarks on the proposition to amend the Constitution from the Legislature of New York. It might seem as if a large share of gra-

titude was due to the gentleman from South Carolina (Mr. HUGER) for his care of that State, if his remarks were not coupled with a tacit reflection on those who represented it. He would concisely state the history of this proposition. During the first session of the seventh Congress, two propositions of amendment to the Constitution were received from the Legislature of New York, which the Representatives of that State were requested to endeavor to have incorporated into the Constitution. At that time, said Mr. M., I did myself make a motion to bring forward both these propositions, and they were both referred to a Committee of the whole House. They remained in this state for a considerable time, under the consideration of the House. Towards the close of the session one of them was adopted by this House, but was lost in the Senate. The other was not acted upon. I recollect that I informed the House at that time, that it was not my wish to have the first proposition taken up. The reasons which then induced me to be against taking it up were those which will influence me against voting for taking it up at this time. I do consider that however a State Legislature may instruct their Representatives in Congress, they have a right to refuse obedience to their instructions. I consider it a sound doctrine that, in a Government like ours, the Representative has a right to act according to the best dictates of his judgment. So judging for myself, I did believe that the first proposition was of such a nature as rendered it inexpedient to make it a part of the Constitution. My further reflection since that time, and intercourse with my constituents, make me believe that it is inexpedient to bring it forward at this time. Independent of this consideration, I shall be opposed to the taking up this proposition at this time on other grounds. There is certainly a much better chance of wisely deciding on amendments singly, than by taking them together. Were I a friend of the proposition, I would be for considering it separately.

Mr. DANA said he was in favor of the postponement, in order to make some disposition of the motion of his friend from South Carolina, (Mr. HUGER.) He thought there would be an impropriety in making two distinct amendments on the same subject at the same session. He was not a friend to the proposition, but wished to postpone it to the next session to put it out of the way.

The yeas and nays were then taken, at the instance of Mr. HUGER, on his motion of postponement, and were—yeas 34, nays 86, as follows:

YEAS—Simeon Baldwin, Silas Betton, John Campbell, Martin Chittenden, Clifton Clagget, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, Peleg Wadsworth, and Lemuel Williams.

NAYS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jr., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smile, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

The House then went into a Committee of the Whole—Mr. VARNUM in the Chair.

The amendment from the Senate having been read, as follows:

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That in lieu of the third paragraph of the first section of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which, when ratified by three-fourths of the Legislatures of the several States, shall be valid to all intents and purposes, as part of the said Constitution, to wit:*

The Electors shall meet in their respective States, and vote by ballot for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name in their ballots the person voted for as President, and in distinct ballots, the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and all persons voted for as Vice President, and of the number of votes for each, which lists they shall sign and certify, and transmit, sealed, to the seat of Government of the United States, directed to the President of the Senate. The President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates; and the votes shall then be counted. The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then from the persons having the highest number, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President; but in choosing the President, the votes shall be taken by States, the representation from each State having one vote; a quorum for this purpose shall consist of a member or members from two-thirds of the States, and a

majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other Constitutional disability of the President.

The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice. But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States.

Mr. ELLIOT moved to amend the resolution from the Senate by striking out the following words:

“And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other Constitutional disability of the President.”

When, said Mr. E., the final question on the amendment to the Constitution passed some time since this House, which contemplated the simple principle of discrimination, I contented myself with a silent vote in favor of it. I should remain silent on this occasion, had I not, by intervening circumstances, been placed in a peculiar situation. My colleague, a short time ago, laid on the table a resolution passed by the Legislature of the State which I have the honor to represent, with singular unanimity, by which the Senators of Vermont were instructed, and the Representatives requested to use their utmost exertions to obtain an amendment to the Constitution containing the simple principle of designation. This request was mingled with another, that we should not be tenacious of the form if we could obtain the substance. I felt happy on this occasion not to be under the necessity of discussing the principle how far a Representative is bound by the instructions of his constituents, as I never possessed a sentiment hostile to the principle of discrimination. I do believe that my constituents, of both of the parties which divide America, are almost unanimous in their approbation of this principle. But I do not believe that the people or Legislature of that State wish to combine with it any other principles. However I may myself be in favor of the great principle of discrimination, I do not consider myself under any obligation to vote for it, if combined with other principles, which I think tend, in a tenfold degree, to introduce a greater evil than that at present to be apprehended, to wit: to introduce a person to the Presidency, not contemplated by the people or the Electors. I sincerely believe the resolution from the Senate, if adopted, will have this effect. I have likewise objections to the language in which the resolution is couched. In the Constitution, as it now stands, it is prescribed that the House of Representatives

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shall elect a President, in case there be no choice by the Electors. It appears to me inconsistent, almost in the same breath, to say you may choose or not choose, as is virtually declared in the present resolution. You may reject all the candidates for the Presidency, and introduce a person intended for a different office. It appears to me improper to use this imperative language, and at the same time allow a wide discretion; not that I believe the framers of the Constitution intended to coerce the physical or moral volition of the members of the House of Representatives; but I believe they intended, by the strongest language which could be used, to discontinue the idea of no election. To this we owe the last election by the House of Representatives. I will ask, what would have been the result, if, instead of this simple dignified language, this temporising language had been used? You may prolong your session to the fourth of March, and if there shall not be then a President elected, the President of the Senate shall be President of the United States for four years. I believe that the language of the Constitution ought to be imperative; but if it ought not, still it ought not to say you may choose, in the same sentence that it says you may not choose a President.

With this view of the subject, I cannot satisfy my mind to vote for the amendment of the Senate. I believe it is the wish of the people to amend the Constitution, simply so far as regards the designating principle. I believe that they do not desire many amendments to the Constitution. Three or four distinct amendments are embraced in the proposition of the Senate. I am in favor of one amendment only. I am not prepared to vote for any other. If this motion succeed, it may be proper to strike out other parts of the proposition from the Senate. It will then stand as we sent it to the Senate, or an additional provision, if it shall be considered necessary, may be introduced, for an extraordinary election by the people, in case the House should not elect the President, which will be perfectly agreeable to me.

Mr. HUGER said it was unnecessary for him to repeat arguments already so fully urged, to prove the improper nature of the amendment from the Senate. But, though he should ultimately vote against it, yet he considered it his duty to render it as unexceptionable as possible. He should, therefore, vote against the motion made by the gentleman from Vermont. If any amendment of the Constitution were necessary, this was, in his opinion, precisely the one. It had been well observed in another place that man was man, and that this nation must ultimately be prepared to meet and resist the vices attached to human nature. If we could always calculate upon having our councils filled with men of virtue, the Constitution itself would scarcely be necessary. But all constitutions and all laws were predicated on the vices of men. Mr. H. said it had always struck him as a most important circumstance, and as one that might lead to the most fatal consequences, that the election of a President should absolutely depend on the votes of the House of Representa-

tives; and that, if these votes should prove equal, there would be no election. The time might come, and would come, when the election of a President would be brought into that House, and when they would make no choice.

Mr. CHITTENDEN declared himself in favor of the amendment of his colleague. If the election of a President should be brought into the House of Representatives, it would be known who had been voted for as President, and who as Vice President. It would only then be required to frustrate the election of a President to make the Vice President President. He believed there was no danger to the rights and liberties of the people, by suffering the Constitution to remain as it was.

Mr. SKINNER said he believed the great States ought to have some rights as well as the small. He had always considered the Constitution as formed upon principles that gave the small States as extensive rights as were reasonable, and that gave them power enough to make them secure in the enjoyment of those rights. As to the designating principle, he was fond of it. He believed it was a sound principle that a majority should govern. But he could never agree, but from absolute necessity, to make a provision that would offer a strong temptation to an individual to intrigue, and would enable one-fourth of the representation of the people to frustrate an election. He did not think this provision necessary, as he did not believe the period would ever arrive when a majority of that House would not obey a solemn Constitutional injunction. He was therefore in favor of striking out that part of the amendment which eventually devolved the Presidency on the Vice President, in the case of no election in the House of Representatives. He would rather take the amendment without this provision; and he did not know whether he would not reject the whole, rather than adopt this provision.

Mr. HOLLAND was in favor of the amendment from the Senate, as better than the one sent from the House. He had always thought the Constitution faulty from the want of this provision, and experience had shown the necessity of it. In the case of a non-election in the House of Representatives, (were it a possible case,) this provision was calculated to remedy it. The only objection now urged, is, that the House of Representatives may act corruptly. Mr. H. would not give into this idea as possible, yet it was very possible that some circumstances might arise which would prevent the House of Representatives from making an election. Some great disaster might occur—for instance, the House might fall, and crush the members to death.

Mr. SMILIE.—The Senate have made two alterations in the propositions that went from this House. The only thing for us to consider, is, whether they are of such a nature as to render it better for us to adopt or reject the entire resolution. The Senate appear to have considered the difficulties and evils lately experienced, and to have provided against their recurrence. To this provision gentlemen now except. This amendment, which it is proposed to strike out, is in favor of the

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small States. Notwithstanding this, I, as a Representative of a large State, shall not reject it. We have heard, on this occasion, a great deal about State interests; but I have never witnessed an instance in which it has influenced the decision on any question of great importance. And if the time ever does arrive, when local interests shall direct the Councils of our country, we need care little about the Constitution. Be this as it may, those who think this amendment renders the Constitution better than it now is, will vote for it. We must consider the other branch of the Legislature as participating with us; and in order to obtain a correspondence of opinion with them, we must conciliate. As I consider this amendment as a grave for the whole business, I shall vote against it.

Mr. THATCHER expressed himself in favor of the motion of the gentleman from Vermont. As to the idea of the gentleman from Pennsylvania, (Mr. SMILIE,) that we must take this resolution from the Senate, or nothing, I do not know whence he draws his inference. I should suppose we ought to make the amendment as perfect as possible. Are we to adopt what we think totally improper, because the Senate approve it? What, in my opinion, principally renders this resolution exceptionable is, that it carries the election of President from the popular to the federative branch of the Legislature. The friends of each candidate will be induced to scatter their votes, and thus, aided by the influence of the Senate, prevent an election in the House of Representatives. There will not, in such event, exist the same inducements to make an election, flowing from a dread of the evils of anarchy and of an interregnum. Another objection also, in my mind, is powerful. The effect of this proposition will be to send a number of candidates into the House, not the three or five highest on the list, but the three highest numbers, containing an indefinite number of persons. One consequence must follow, either that the election will come into the House, or that the large States will combine together in order to prevent it.

Mr. LOWNDES said he was in favor of the motion of the gentleman from Vermont, for the reasons which had been already urged. It appeared to him that, under the propositions received from the Senate, the Vice President would intrigue with the members of the House of Representatives. Having the whole patronage of the Government in his hands, in case of success, he may work upon them, as he believed, that though they were not corrupt now, they might be hereafter. If the object be to prevent the recurrence of a late event, that would be easily effected by providing that in case of an equal vote in the House of Representatives for President, lot shall decide; and if the present motion prevailed he would move an amendment to such effect.

Mr. DANA said he would make a motion, the object of which was to abolish the office of Vice President; he therefore moved to strike out the following words:

"And if the House of Representatives shall not

choose a President whenever the right of a choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other Constitutional disability of the President

"The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and if no person have a majority, then, from the two highest number on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

"But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States."

The motion being more comprehensive than that of Mr. ELLIOT, superseded it.

Mr. SANDFORD observed, that if the gentleman would have waited a short time his motion would have been decided upon in determining the principle of designation. If there were no Vice President, no designation would be necessary.

He said he was against the amendment of the gentleman from Connecticut, and in favor of the resolution from the Senate.

Mr. DANA.—Notwithstanding the admonition of the gentleman from Kentucky, I shall assign my reasons in favor of the motion which I have submitted. The more I have reflected on the subject the more I am convinced that we ought not to agree to the amendment on the plain principle of discrimination. If the resolution is to pass in any form, it is my wish that it should pass with this modification. It has been referred to as a reason for altering the Constitution, that it is a fact, that the will of the people will be in favor of one of the candidates for the Presidency, and that it will not become the House of Representative to choose from the two equal in votes, according to their discretion. The object of the amendment is to guard against this evil. Gentlemen will well recollect the indignant eloquence that was so copiously lavished at the last Presidential election upon those who voted for one of the candidates. This competition cannot exist, if the office of Vice President does not exist. But it is said that one public benefit will result from the continuance of the office of Vice President after the adoption of the discriminating principle, that is, that the Vice President will be the eventual successor of the President. But on this view of the subject, the adoption of the discriminating principle produces a great change in the present provision of the Constitution. The Vice President is to exercise, in case of his succession to the Presidency, the duties of that office, until the expiration of four years, from the election of the President; not until a new election is held, but for the remaining term. This amendment makes the Vice President a secondary character. The reasons, therefore, for continuing the office of Vice President are not so great under this amendment, as under the Constitution, as it at present stands; for it will be extremely easy to make provision for the temporary filling of the office of President,



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in case of vacancy. In Pennsylvania, and in several other States, this provision is made by the designation of a particular existing officer. Gentlemen may be convinced there is no necessity for this office, if the discriminating principle prevails, by a recurrence to the Journals of the Grand Convention. From them it will appear, that there was originally no idea of a Vice President; but that it was explicitly agreed that the Senate should choose their own President. The necessity of a Vice President did not suggest itself until the idea of a double ballot was introduced. In one point the members of the Convention were agreed, to wit: that the Supreme Executive should consist of one person; but as to the manner of appointing him, the term of his office, and whether he should be eligible in future, there existed great diversity of opinion. The first plan was that he should be chosen by the National Legislature, by the joint ballot of both Houses: it was then proposed that he should be chosen by the people, but this was disagreed to, as well as a proposition that he should be chosen by the Electors appointed by the State Legislatures; a proposition that he should be chosen by Electors appointed by the people, was likewise disagreed to. All these different propositions were disagreed to, until the principle of double ballot prevailed.

Unless some great good result from the office of Vice President, no argument for its continuance can be deduced from the necessity of having an eventual successor; that case can easily be provided for, when the Senate choose their own President, and, as in many of the States, the President of the Senate may eventually preside.

The principle of the Constitution is this: In the Senate the representation of the States is equal, but by introducing into the chair of the Presidency of the Senate a representative of a State, you give to that State the advantage of having the man who presides over the deliberations of the Senate; and, in addition to this, when the votes are equal, he holds the balance, and one State, having thus three votes, in particular cases, destroys the equality contemplated by the Constitution. To this amendment there is another objection: the Vice President under it being but a secondary character, that office will become a lure to ambitious men, who, by flattering the States, and by the exertion of undue influence, will enable particular parties to make a bargain as to the possession of the Executive power, which, so far from being a benefit, will be a great evil. Perceiving no good that will result from the continuance of the office, but great evil, in case the discriminating principle prevail, I am in favor of abolishing the office, though I am at the same time in favor of the Constitution remaining as it is.

Mr. ELLIOT.—As the motion I submitted is superseded by that of the gentleman from Connecticut, I will assign a few reasons for the vote which I shall give. I originally contemplated the same motion, but with different views and sentiments from those expressed by that gentleman. I have no desire to abolish the office of Vice Presi-

dent; nor do I think the arguments urged by the gentleman possess any force. I have a different view. I believe the principle of discrimination is the only amendment of the Constitution which the public sentiment calls for, and I wish to make no amendment in which we are not anticipated by the public sentiment. I shall, therefore, vote for the motion of the gentleman, but under different sentiments, and with a different object.

Mr. R. GARSWOLD.—The gentleman from Kentucky will, on examination, find the amendment of my colleague not inconsistent with the spirit of the resolution. The object of that resolution is, that every Elector shall give a vote for President. If the office of Vice President shall be abolished, every Elector will give one vote, and that vote will be for President. It may be said, it is true, that the discriminating principle will be done away; but it may be answered that it is no longer necessary. I am clearly of opinion, if we adopt the discriminating principle it will be useless, worse than useless. If that principle is adopted, of what use can the Vice President be? For what purpose do we want him? To receive \$5,000 a year? This may be beneficial to him, but it cannot be useful to his country. The office may confer honor on him, but the honor of an individual can be of no public utility. Will he be wanted to preside in the Senate? That will not be necessary, for the Senate sit half their time without the Vice President, and I have not understood that the business is not as well done without as with him. For what purpose, then, will you have this officer? As heir apparent to the Crown? If this is your object, select him from the best and greatest of your citizens, and do not adopt the principle that the Electors shall vote for one man for President and for another as Vice President.

What will be the effect of this principle? The office of Vice President will be carried to market to purchase the votes of particular States. A large State, having numerous Electors, and claiming a right to designate the President, but not having votes enough itself for that purpose, will carry the office of Vice President to another State, and will say, give us the President and we will give you the Vice President. If it be your desire to consider the Vice President as heir apparent to the Presidency, elect him not in this manner, for he must be the mere child of corruption! With these views, I am justified in saying the continuance of the office will be worse than useless, inasmuch as it will only tend to introduce a system of corruption. It will also give a particular State great weight in the Senate, by giving it three votes, and the presidency over that body. Why do this? Under the old Confederation all the States were equal. Why unnecessarily impair that great principle? Why give to the State from which the Vice President is selected this power, together with influence of another kind? For these reasons, I am of opinion that when gentlemen determine to discriminate, they ought to go the full length of the principle. If they agree to amend the resolution, it may be so altered as to

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make every part of the Constitution correspond. Gentlemen will observe that I am discussing their principle, and that though I think the Constitution far better as it is, yet if the discriminating principle is to prevail, I think that the amendment proposed by my colleague will render the resolution far less exceptionable.

The question was then taken on Mr. DANA'S motion, which passed in the negative—yeas 34.

Mr. ELLIOT'S motion recurring—

Mr. ELLIOT said he could not suffer the question to be taken without noticing one argument urged by the gentleman from Pennsylvania, who conveyed the idea that, as the resolution had passed the Senate, we must either take it as it is, or lose it altogether. From what premises this conclusion was drawn he was not able to discover, as he had observed before; after laboring for weeks on the resolution which embraced the discriminating principle, and we had agreed to it, the Senate have not acted on that, but have sent us another, to which he was decidedly opposed. He could not but believe that a spirit of accommodation would actuate the Senate if we struck out this part of the resolution; but if he did not believe this, he would not even then sacrifice his ideas to the opinions of the Senate, nor adopt the doctrine advanced by gentlemen of an imperious necessity. To this doctrine he would always oppose the dictates of duty and conscience. For he did believe, if they adopted the resolution from the Senate, they would render the Constitution pregnant with greater evils than it was at present.

Mr. GODDARD was happy to see the notice taken by the gentleman from Vermont of the remarks of the gentleman from Pennsylvania. If these remarks were just, we might as well be done with business at once. Are our minds to be trammelled with the decisions of the Senate? With great deference to that body, he would not suffer his mind to be bound down to their will. We have passed a resolution with a discriminating principle, they have sent us another resolution with other principles. Suppose they had said, if there were no election in the House of Representatives, the Senate should choose the President, would the gentleman from Pennsylvania vote for it? There was another effect of the resolution of the Senate; it would be giving to the large States both the power and the premium to combine in the election of the President. By the discriminating principle, you vest the large States with the power of making the President, and through the medium of the Vice President you give them the means of effecting that object.

The question was taken on Mr. ELLIOT'S motion, which passed in the negative—yeas 38, nays 81.

Mr. CHAMBERLIN moved to amend the resolution by striking out, in the second clause, the words "persons having the highest numbers not exceeding three," for the purpose of inserting the words "five highest."

Mr. DANA called for a division of the question.

Mr. SANDFORD could not help again advising the gentleman from Connecticut. The object of

the motion seemed to be to defeat the whole business by sending it back to the Senate. He trusted the question would be taken on the main resolution, on which every member, he believed, had made up his mind.

Mr. CHAMBERLIN did not know by what spirit of divination the gentlemen penetrated into his motives. He had expressed no motive but to render the Constitution as perfect as possible, having previously expressed a wish not to change the Constitution as it at present stood.

Mr. GODDARD.—The gentleman from Kentucky is opposed to the motion of the gentleman from Vermont. This subject has been considered before. The numbers three and five were then before us, and gentlemen with great deliberation settled five as the best. So the resolution went from us, and it comes back again with the number three. The gentleman says he is for three, and intimates that it is the object of the motion of my friend to defeat the whole business by sending it back to the Senate! As the amendment stood, Mr. G. did not understand it, "the highest number, not exceeding three," could not certainly mean only persons having three votes.

The CHAIRMAN said the word "number" was a misprint; in the manuscript it stood numbers.

Mr. GODDARD said if a classification of persons were intended, the principle was the same.

Mr. ELLIOT was equally at a loss, with others, to discover the motives ascribed to his colleague in making this motion. Some gentlemen say his motive is to defeat the whole resolution. How defeat it? By making it conform to the resolution sent by this House to the Senate. How long is it since some gentlemen, now in favor of a precipitate decision, in protracted debates threatened, if the number five were not introduced, that they should vote against the whole resolution? It was astonishing that what they themselves were so lately friendly to, should now be calculated to defeat the whole object!

Mr. E. said he was prepared to lose the discriminating principle forever, rather than incorporate with it the principle sent down by the Senate.

Mr. SMILIE said he was sorry to see the gentleman warm without occasion. He was one of those originally in favor of the number five, but had uniformly declared that that circumstance should not prevent him from agreeing to any number, provided the principle of discrimination were adopted. But gentlemen think it strange, said Mr. S., that I should utter an opinion that the effect of sending this resolution back to the Senate, will be to defeat it. Such was my opinion when I uttered it, and I think so still. I also said that I did not like the amendment from the Senate so well as our own; but, liking it better than the present provisions of the Constitution, I was in favor of its adoption. When two bodies have to agree, there must be a mutual spirit of concession, or business can never be transacted. This concession takes place every day. I repeat, then, what I said before, that those who believe this the best amendment we can get, ought to vote for it.

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Mr. R. GRISWOLD.—The first question is on striking out the words "persons having the highest number, not exceeding three." If gentlemen will critically attend to these words, they will perceive that, in order to make sense of the resolution, or to accomplish their object, they must strike them out. I know perfectly well that it is disagreeable to enter into verbal criticisms in public bodies, and that they ought not to be made on ordinary occasions; but, when we are amending the Constitution, it is proper to make it as plain as possible, and to convey our ideas in apt words, which shall not admit a construction different from that which we intend. I ask gentlemen to tell me the meaning of these words: "and 'if no person have such majority, then from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose.'" &c. To what does "three" refer? Either to persons or to numbers. I conceive it clearly applies to numbers. If so, what will be the effect? Then "from the persons having the highest numbers"—of what? number of votes. It will then read, that the elections shall be confined to persons having three votes, and consequently persons not having precisely three votes, cannot be elected. This is not the intention of gentlemen, to exclude those having the greatest number of votes, and to confine the choice to those who have only three votes, and yet the word "numbers" must refer to the last antecedent. I do not know how it came about that the Senate introduced this absurdity into their resolution; but I do hope that the members of this House will look to it, and see whether they are not doing a different thing from what they intended. Surely it is not the object of gentlemen to send an amendment to the people, either different from what they intended, or so obscure as not to be intelligible.

I am inclined to think the idea of the Senate was to confine the election to three classes of persons. I am of opinion that they have not used the apt and proper words to convey this meaning. I ask gentlemen to read over the resolution. I will venture to say three-fourths of the people who shall read it, will think it is intended to confine the election to three persons; and yet, I understand, it is the intention of the Senate only to confine it to three classes. This may, perhaps, be the true construction of the words, but, in amending the Constitution, we ought to render it as clear and explicit as possible; so clear and explicit that every man who runs may read. I therefore trust that gentlemen will take up this resolution, and render it so clear as to avoid all doubt.

Mr. DENNIS said, whatever might be the precise grammatical construction of the words proposed to be stricken out, he believed that nineteen-twentieths of the people would place that construction upon them that made persons and numbers synonymous. It was immaterial to him whether the existing obscurity were removed by striking out these words, or introducing additional expressions. He thought it could not be denied that the words admitted of different constructions,

and that they ought not to leave a principle so important to a variety of interpretations; but ought, on the contrary, to use language the most accurate and pointed. He hoped gentlemen would exercise a due degree of indulgence to those who did not understand these words as they did, and agree to remove their obscurity. For this reason, he was in favor of the motion to strike out.

Mr. J. RANDOLPH said, that this was not the first time that the House had been sent back to their accidence and ferula, to Lilly and Ruddiman, to solve the doubts of gentlemen from Connecticut. Since such was the case, he recommended a recurrence to a well known rule, in all cases of difficulty as to concord, to ask the question, who or what? He concurred with the gentlemen in the position, that, in all cases of construction, where the sense would warrant it, the relative was to be referred to the last antecedent. The choice is to be made out of "the persons having the highest numbers, not exceeding three." Three what? numbers—what number? highest numbers. Will the gentleman undertake to maintain that not exceeding the three highest numbers is the same as not exceeding three in number? That three numbers and the number three are one and the same? But, whether the numeral three agree with persons, or numbers, the sense contended for cannot be made out. If it refer to persons, then the choice is to be made out of those persons, not exceeding three, having the highest numbers on the list. If to numbers, which was the evident construction, then the choice was to be made from those persons having the highest numbers, not exceeding three.

Mr. R. GRISWOLD said, this expression was not so clear, in his opinion, as the gentleman from Virginia thought it. The gentleman from Kentucky (Mr. SANDFORD) says, the word "numbers" refers to persons, while the gentleman from Virginia says, they refer to the three highest numbers, which may refer to forty persons, if they should be equal. When doctors disagree, what is to be done? I think the different construction of gentlemen, as well in favor of as against the resolution, shows the necessity of clothing it in language that will remove all doubt. If this were an amendment of a law, the obscurity of the language would not be so material, as it would be in the power of the Legislature at any time to alter it; but, being part of the Constitution, it will be out of their reach.

Mr. SANDFORD could not see the difference between his construction and that of the gentleman from Virginia. The gentleman from Vermont had charged him with voting for the number five, and being now in favor of three. Mr. S. said, he did not vote for the number five, and he would ask that gentleman if he would not allow him to show the same spirit of accommodation that actuated himself in voting for three instead of five? The same spirit would induce him to vote for the resolution of the Senate, since they had not acquiesced in our proposition.

Mr. HUGER, after impressing the propriety of

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removing the obscurity of the language contained in the resolution, moved that the Committee should rise.

Motion lost—ayes 32.

Mr. ELLIOT.—It is a task of delicacy to decide whether the gentleman from Kentucky, Connecticut, or Virginia, is the best grammarian. I believe, however, that the palm of grammatical learning and verbal criticism will be found to be justly due to the gentleman from Virginia. On this occasion he has been extremely ingenious; but, in undertaking to prove that there is no obscurity in the language of the amendment, I conceive that he has failed in his object. The very ingenious mode in which he has managed the subject has convinced me there is obscurity in it. He says it is immaterial to which of the antecedents the words not exceeding three refer. I do believe, though perhaps less conversant with Lilly, or Ruddiman, or Webster, than the gentleman, that it refers to persons and not to numbers. He has asked the difference between the three highest and the persons having the highest numbers, not exceeding three? If the expression should be the three highest numbers, and it should happen that two persons have thirty-five each, and four persons sixteen each, it will, I apprehend, be extremely difficult to determine which are the three highest persons. I believe, also, that, according to this construction, the gentleman who think five involves too great a discretion, will consider the extending the number to thirty will be still more exceptionable; but, we are told, notwithstanding all the obscurity and other defectiveness of this resolution, we must pass it, as it came from the Senate, lest by sending it back it may be defeated. But, I will prophecy, though, like Cassandra, my prophecy may not be believed until it is verified by time, that this resolution, though passed by us, will not be adopted by the State Legislatures. This, time will determine. For these reasons, I am in favor of erasing these words, that others may be introduced less susceptible of grammatical criticism.

Mr. BALDWIN inquired, whether the expression "that the election of President, in the House of Representatives," should be confined to "the persons having the highest number, not exceeding three," did not imply that the House might, if they chose, confine the election to two; and whether on such election, there must not be a previous question decided, whether the word "three" related to persons or numbers? How was this to be determined? The choice of a President is to be by States. How is this question to be settled; by the whole of the members? If so, what will be the consequence? The four States of Virginia, Pennsylvania, North Carolina, and Massachusetts, having a majority of all the members on the floor, their combination may limit the number to two persons, and thus exclude the candidate who might otherwise have been voted for by the thirteen other States. Considering the effect of this construction, and of the different constructions put upon the language of the resolution, by other gentlemen, and that the language of the

Constitution ought to be so correct as to free it from a variety of constructions, Mr. B. hoped the House would pause, and, before they gave the amendment its final passage, make it as free from ambiguity as possible.

Mr. RODNEY would detain the Committee but a few moments. He said he might be permitted to remark that, accustomed to consider subjects on principle, and to act himself under the best impressions of his judgment, he was willing to give credit to others, and to believe that they also acted on the same motives. He agreed with his friend from Virginia as to the construction proper to be put upon the amendment. By attending to every part of it, according to the rules of syntax, it appeared to him that no doubt could exist, on the most mature reflection, as to its proper construction. "The person having the greatest number of votes for President, shall be the President, if such number be a majority of the whole number of Electors appointed; and if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately, by ballot, the President." The Committee will observe, that, in the previous part of the paragraph, the term, *number* of votes, is used, and that reference must be had to it in construing the meaning of those words through every subsequent part of it. He believed that, by a simple reading of the paragraph, it would appear that *three* does refer to *numbers*. To give a just construction to any sentence, we must use every part of it, and not exclude a single word if we can give it meaning. Taking this as a sound rule, and giving effect to the term, *highest*, the argument of gentlemen is answered. They pretend to say, when they find the expression, *the highest numbers not exceeding three*, that the highest on the list are to be excluded, and the choice to be confined to persons having only three votes. The House is to take the highest numbers—the three highest, whether more or less. As the Constitution now stands, it says, if no person have a majority, the House shall choose by States from the five highest. A case might occur where six of the candidates would have equal votes. What would be the consequence? The Constitution confines the choice to the five highest; there would, in that case, be returned to the House six candidates equal and highest. To remedy this defect, the amendment is so framed that, instead of tying down the House to a choice from five persons, it authorizes it from the three highest numbers. Gentlemen object to this by saying that it allows a wide scope, and permits the House to choose a person, having, perhaps, but one vote. And is not this the case at present? Suppose the two highest have all the votes but three, and that three other persons have but one vote each, the case will be precisely the same. Mr. R. confessed that it was so long since he had left school, that he was not able to repeat the rule of grammar to which he had referred, but it did appear to him, when reference was had to a substantive qualified by an adjective, it was proper to

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take both together. No instrument was so perfect but that, if the parts were taken separately, it might not be rendered nonsense. He had learned, somewhere, that a clergyman, reciting in a place of worship the old version of the Psalms by Sternhold and Hopkins, had said—

“The Lord will come, and he will not—  
Keep silence, but speak out”—

A sailor, who happened to be listening, thinking the man crazy, and all who heard him, immediately left the house. So, in this case, the gentleman, by a similar species of ingenuity, may make this or any other resolution, perfect nonsense.

Mr. DANA said it was not his purpose to enter into a grammatical disquisition. To understand correctly the meaning of particular words, it was not necessary to refer to the authority of grammarians. When they understood the principles of grammar they did not want those authorities. He rose merely to observe that on the first reading of the resolution, many gentlemen entertained different ideas from those expressed by the gentlemen from Delaware and Virginia, some gentlemen considering the term, *highest*, as referring to persons, and others to numbers; as had been observed, the punctuation would decide it one way or the other—the construction might depend on commas. On a question in which the passions are so apt to be engaged as in the election of a Chief Magistrate, the language ought to be plain. He did hope, therefore, that where all agreed in principle, all would agree to clothe it in language that would free it from obscurity.

Mr. ELLIOT moved that the Committee should rise.

This motion was lost—ayes 36, noes 66.

The question was then taken on striking out, and lost—ayes 29.

Mr. THATCHER said that in the first paragraph of the resolution, the following expression was used: “when ratified by three-fourths of the Legislatures of the several States.” It appeared to him that this expression required the ratification by three-fourths of each Legislature, and not, as expressed in the Constitution, of the Legislatures of three-fourths of the States. To make the phraseology conform to the Constitution, he moved to substitute, in the room of the former words, the following: “when ratified by the Legislatures of three-fourths of the States.”

The motion was lost without a division.

The question being then stated on the resolution generally—

Mr. ELLIOT said, as the Committee were not disposed to hear him, and as he felt quite exhausted, he should not, on cool reflection, trouble them with the full remarks he intended to make, but should, when the amendment came into the House, ask for a division of the question, and offer a few remarks in support of the opinions he held.

The main amendment was then agreed to—ayes 75, noes 26.

The Committee having risen, and the Chairman having reported an agreement to the resolution from the Senate, without amendment, the

House immediately took the same into consideration.

Mr. CHITTENDEN said, as this was an important question, requiring, in his opinion, more time for deliberation, he would move an adjournment.

The yeas and nays being taken on the adjournment, were, yeas 30, nays 77.

Mr. DANA renewed the motion, made in Committee of the Whole, for so altering the resolution as to abolish the office of Vice President by striking out so much thereof as is contained in the words following, to wit:

“And if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

“The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and, if no person have a majority, then from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice.

“But no person, constitutionally ineligible to the office of President, shall be eligible to that of Vice President of the United States.”

And on the question that the House do agree to the said amendment, it passed in the negative—yeas 27, nays 85, as follows:

YEAS—Simeon Baldwin, Silas Betton, Martin Chittenden, Clifton Claggett, Samuel W. Dana, John Davenport, Thomas Dwight, James Elliot, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, William Hoge, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Plater, Samuel D. Purviance, John Cotton Smith, William Stedman, James Stephenson, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbitts, and Lemuel Williams.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Caesar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram

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Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

Mr. GODDARD moved to strike out "persons having the highest numbers not exceeding three," in order to insert, "five highest," and called for the yeas and nays; which were taken, and the motion negatived—yeas 32, nays 85, as follows:

YEAS—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, James Elliot, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, John Cotton Smith, William Stedman, James Stephenson, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, and Lemuel Williams.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Fredrick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Casar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

Mr. G. GRISWOLD moved to strike out "two," and insert "three," being the number of candidates for the Vice Presidency, from whom an election shall be made by the Senate.

The motion was lost without a division.

Mr. ELLIOT moved a division of the question on agreeing to the whole amendment at the word Vice President in the second paragraph. And on the question that the House do agree to the first member of the resolution in the words following to wit:

"Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled, two-thirds of both Houses concurring, That in lieu of the third paragraph of the first section of the second article of the Constitution of the United States, the following be proposed as an amendment to the Constitution of the United States, which, when ratified by

three-fourths of the Legislatures of the several States, shall be valid, to all intents and purposes, as part of the said Constitution, to wit:

"The Electors shall meet in their respective States, and vote, by ballot, for President and Vice President, one of whom, at least, shall not be an inhabitant of the same State with themselves; they shall name, in their ballots, the person voted for as President, and, in distinct ballots, the person voted for as Vice President, and they shall make distinct lists of all persons voted for as President, and of all persons voted for as Vice President."

It was resolved in the affirmative—yeas 85, nays 30, as follows:

YEAS—Willis Alston, jr., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jr., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Casar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, Benjamin Huger, Samuel Hunt, Joseph Lewis, jr., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, John Cotton Smith, William Stedman, James Stephenson, Benjamin Tallmadge, Samuel Thatcher, George Tibbits, and Lemuel Williams.

The other member of the resolution was, on the question put thereupon, agreed to by the House, as follows:

"And of the number of votes for each; which lists they shall sign and certify, and transmit, sealed, to the seat of the Government of the United States, directed to the President of the Senate; the President of the Senate shall, in the presence of the Senate and House of Representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes for President, shall be President, if such number be a majority of the whole number of Electors appointed; and, if no person have such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as President, the House of Representatives shall choose, immediately, by ballot, the President. But, in choosing,

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the President, the votes shall be taken by States, the representation from each State having one vote; a quorum, for this purpose, shall consist of a member or members from two-thirds of the States, and a majority of all the States shall be necessary to a choice. And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, as in the case of the death or other constitutional disability of the President.

"The person having the greatest number of votes as Vice President, shall be the Vice President, if such number be a majority of the whole number of Electors appointed, and, if no person have a majority, then, from the two highest numbers on the list, the Senate shall choose the Vice President; a quorum for the purpose shall consist of two-thirds of the whole number of Senators, and a majority of the whole number shall be necessary to a choice."

"But no person constitutionally ineligible to the office of President shall be eligible to that of Vice President of the United States."

The SPEAKER put the question on the whole resolution.

Mr. ELLIOT.—I shall detain the House but a few moments in submitting to their attention a few remarks. If the vote I shall give this night shall induce my constituents to call me back to the studious and rural life from which I was reluctantly taken, I shall have the consolation to reflect that I have done my duty. I have voted for the simple principle of discrimination, believing it the only amendment the public voice calls for. I believe the objections to that principle to be founded on ideas that are erroneous and visionary; I believe it will not impair the rights or relative importance of the smaller States; I believe the Constitution to be founded on elementary and federative principles, and that, by their union, it constitutes the most illustrious monument of human wisdom; I believe it important to all the members of the Union that the process of election should be simple and pure, and that the President should be elected by a fair expression of the public sentiment, that he may, thereby, be the correct organ of the public will; and that, compared with this, it is of little consequence whether once in a hundred years he may be a citizen of Massachusetts rather than of Virginia, or of Vermont rather than of Delaware. I have heard many ingenious arguments on a former occasion, without being induced to believe that either the rights or relative importance of the small States would be impaired by this principle; but, in deciding on this subject, I also believe this House ought to manifest caution and deliberation in making the alteration. I believe that all irritation and pride of party should be laid asleep. A different course from this has been pursued to-day. I have no doubt, with pure motives, but I have some doubts whether with becoming judgment. I believe the amendments incorporated into the resolution of the Senate, to be infinitely more important than gentlemen may imagine. This can only be demonstrated by experience. I venture to prophesy this resolution will not be adopted by three-fourths of the States.

I hope it never will. I believe, if adopted, it will jeopardise the union of the States, and open a door to intrigue and corruption, which gentlemen should wish to close forever; and I believe instead of making the Constitution better than it now is, it will make it infinitely worse. We are about to increase tenfold the probability of introducing a person into the Presidency not calculated for that office, and to increase the avenues by which corruption and ambition may be advanced to supreme power. I am comforted by the assurance that I shall not be the only member friendly to the Administration that will give it a negative, and that this will induce gentlemen to believe that I do not vote from irritation or prejudice. Neither birth, wealth, talents, nor connexions, introduced me to public favor. I am induced to believe that I owe that distinction to a conviction of my personal integrity; and, though I do not wish to use the language of arrogance, I expect that the vote I shall give this night, instead of lessening, will increase the favorable opinion of the Republicans, and if, on any future occasion, the people of this country shall be under the necessity of mourning over their departed liberties, of lamenting the destruction of a Constitution, the work of so much toil, labor, and wisdom, by the passage of this resolution, and perceive my name recorded in the negative, they will remember the prediction I have made on this occasion.

The resolution was then agreed to, and the question was put on engrossing it for a third reading.

Mr. J. RANDOLPH moved that it be read a third time to-day.

Mr. R. GRISWOLD moved that it be read a third time to-morrow. He hoped it would be postponed till to-morrow. This was the first moment, during the progress of the resolution, in which it was in order to discuss its merits. They had been already eight hours in session. All the previous deliberations of the House had been taken up in amending the resolution, and now when its merits came to be discussed, he trusted a majority would not be in favor of precipitating a vote. The merits of the amendment had not been fully discussed, and if ever it was important that any measure should be deliberately discussed, it was the one about being adopted, which went to change the radical features of our Government. He concluded by moving that the yeas and nays should be taken on the third reading of the resolution to-morrow.

Mr. J. RANDOLPH said that the gentleman from Connecticut had called on the House, to use his own words, not to precipitate a decision on an important measure, contemplating nothing less than a change of a fundamental principle on which the national compact was founded. I will ask you, Mr. Speaker, said Mr. R., and that gentleman, whether in the whole course of this business, from the first motion to amend the Constitution to the present time, such precipitation can be justly charged on the House? I ask him as a man of honor, whether a postponement until to-morrow can affect a single vote? I ask whether he believes a single member has not made up his



mind on the subject? I ask him and the House, whether in the course of this day and yesterday, and on previous occasions, all the great bearings of this resolution have not been sifted, and every line and sentence carped at by critics and hypercritics? Why then are we charged with precipitation? Yesterday it was moved to postpone the resolution; that motion was lost, and on that occasion the object of gentlemen was carried though their motion was lost, for the day was consumed. The same course has been pursued to-day, and on incidental motions to amend particular parts of the resolution, gentlemen have debated its merits. I ask you, therefore, if the resolution has not been discussed in every point of view of which it is susceptible, or if any new matter can be introduced? I ask if the House be disposed to postpone the question until to-morrow, and if the day shall be consumed in making and discussing the same evasive motions made to-day, whether an attempt to take the question then will not be charged with precipitation? There can be no doubt that, unless we adopt the peculiar course of gentlemen, we shall still be charged with precipitation. I for one am willing to submit to this charge, and am willing to hear it urged within and without these walls. If I did not believe the question had been fully discussed, and that further discussion would fail to change a vote, I would acquiesce to postpone it until to-morrow, or the next month; but believing the contrary, I shall be against it.

Mr. ELLIOT—Some of the gentleman's remarks are so extraordinary, that I cannot, I will not suffer them to pass unnoticed. It is immaterial to me what the gentleman from Connecticut, or Virginia, thinks on this subject. Some gentlemen may think the mind of every gentleman fixed; some gentlemen may rely on a degree of personal influence, which I trust will never be realized, and that some gentlemen will take their opinions on the subject from others. But be this as it may, I think it improper to put the queries submitted by the gentleman from Virginia, at the first moment when it is strictly in order to debate the merits of the amendment. Good Heavens! is it come to this, when most material amendments are about to be made in the Constitution, and after an extraordinary degree of irritation and fatigue, when one day more is asked for, the gentleman from Virginia shall get up, and ask if every member has not made up his mind on the vote he shall give; after two new principles are introduced in the resolution sent from this House, which, though confined to the simple principle of discrimination, occupied a month's discussion?

I do not accuse of improper motives the majority of this House, with whom it is my pride and pleasure on most occasions to act. I believe they sincerely think it for the interest of their country that this important decision should be immediately made. I know that the State I represent has manifested great zeal and uncommon unanimity in favor of the discriminating principle. Impressed with its importance, they have, contrary to their usual course, submitted to the inconvenience of an extra session, in the expectation that

this principle would be adopted by the two Houses. But I believe that not a member of the Legislature of that State will be gratified, that so many important amendments, additional to this, have been made after the discussion of a single day; the greater part of which has been consumed in the discussion of incidental points. I do not believe that the people of the United States wish us to spend day after day in examining the merits of a private claim, and to give but a single day to the making of three or four alterations in the Constitution, without allowing a single member an opportunity of discussing any but incidental questions. These are my opinions. I do not believe, however, that they will be accepted by the majority as of any weight. In making them, I mean no reflection on the majority. Yet I believe the majority may, without offence, be informed that even a humble minority have rights as well as they, and that while they feel power they ought not to forget right. These are my reasons for hoping another day may be devoted to the subject.

Mr. GREGG said he would vote in favor of a postponement, were he not persuaded that the question had been fully discussed. It would be recollected that two of the propositions, contained in the present resolution, had been on a former occasion before the House, and had been ably discussed. These same propositions now appeared in a shape somewhat different in form, but the same in substance. They related to the principle of discrimination, and to the number of persons from which the House of Representatives should elect a President. It would be conceded that these two questions had been as fully discussed as they could be. Everything the subject admitted of had been already advanced. The remaining principle, embraced by the resolution of the Senate, authorizing the Vice President eventually to become President, has been also fully discussed on the motion by the gentleman from Vermont. That gentleman calls this an incidental question; but without deciding whether it was an incidental question or not, Mr. G. believed it questionable whether anything could be added to what had been advanced. Another motion had been made to do away the office of Vice President. This likewise had been discussed. These four propositions embraced the whole of the resolution from the Senate; and although there may have been no discussion on the whole of it, yet as there had been a full discussion of all the parts of which it consisted, the effect was the same.

Mr. HUGER said he must exercise the liberty of disagreeing with the gentleman from Pennsylvania. The fact was that the question of discrimination had never been fully discussed. When it was first before the House the gentlemen in the majority acted as if all acquiesced in it. Its real merits had not been, therefore, entered into by them. The only question discussed was, the number from which a choice should be made by the House of Representatives. That was fully done. What then followed? On the main question, Mr. H. said, he was almost the only one, who really went into a discussion of its merits, the gentlemen

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on the other side had not thought proper to make any answer.

MR. DANA.—After having been before Congress for ten years, and the members of the House having spent three days in discussing the petition of Amey Darden for the price of a horse, the amendment of the Senate, to the Constitution is brought before us; and after but two days discussion, we are now called up to decide finally upon it. I do not ask gentlemen to change their opinion, but I require them to have some regard to common decorum; and that when it is unusual on the most ordinary occasions to read a bill the third time on the same day that it has been discussed in a Committee of the Whole, they will not urge a measure of the first importance, which goes to reverse the ideas of our wisest men, to a precipitate decision, in violation of this common rule. This is all I ask, and no more. When gentlemen say there is nothing new to be advanced, I acknowledge myself willing to pay great respect to their intuitive judgments and reach of thought, I do not pretend to say they have not this eminent qualification; but I must say that few men possess these vast powers of mind. It might be arrogance in me to say that I could add anything to what has been so ably urged, particularly in the other branch of the Legislature. Yet I might perhaps present the subject in a light somewhat different. Gentlemen are graciously pleased to say they will hear patiently what we have to advance; but to say they will hear us patiently, when four hours have elapsed since the usual time of dining, is giving us but little indulgence; the exhaustion of the Speaker, and the impatience of the House are such discouragements as a speaker is not accustomed to bear. For these reasons I hope the business will be permitted to take its ordinary course, and the third reading of the amendment be postponed until to-morrow.

MR. BEDINGER urged the necessity of coming to an immediate decision, as the State Legislatures would be exposed to serious inconvenience by further delay. The Legislature of Kentucky would, he understood, adjourn about Christmas. This business had begun with the session, and he was persuaded the mind of every member was made up on it.

MR. R. GRISWOLD hoped the Legislature of Kentucky would not become extinct on their adjournment, and, if not, when they meet again, they could take up this amendment. He trusted, therefore, the House would not precipitate a decision on this account. He could not promise himself, if indulged with time, with the ability to make any observations that would convince the judgment of a single member. Indeed, it was a melancholy truth, that the temper of the House was such as to indicate no change. Gentlemen say, they have made up their minds. He still thought it proper that the subject should be fully discussed on that floor, as the State Legislatures were ultimately to decide. He wished to see it discussed everywhere, on the floor of the House as well as in the public prints. He hoped, also, a respect for the dignity of their proceedings would

restrain gentlemen from calling for a decision at so late an hour. It was not usual to carry a bill to the third reading on the same day with its discussion in a Committee of the Whole. This may have been practised some at the close of a session on unimportant subjects, but had never been practised at the commencement of the session. For these reasons, he hoped the subject would be postponed until to-morrow, when he would offer his opinion on it. It was certainly true, that the gentlemen in favor of it had hitherto refused to discuss its merits. He did hope that, before a final vote was taken on the amendment of the Senate, they would come forward, and, divesting themselves of party sensibility, show the grounds on which they advocated it.

The motion to read the resolution a third time to-morrow, was rejected by yeas and nays—yeas 45, nays 74, as follows:

YEAS—John Archer, Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thos. Dwight, Peter Early, James Elliot, James Gillespie, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Walter Jones, Joseph Lewis, junior, Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Samuel D. Purviance, Tompson J. Skinner, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, John Trigg, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Rd Cutts, John Dawson, William Dickson, John B. Earle, John W. Eppes, William Findley, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thos. Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, Richard Stanford, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, and Thomas Wynns.

The question was then taken on its being read the third time to-day, by yeas and nays, and carried in the affirmative—yeas 78, nays 35, as follows:

YEAS—Willis Alston, junior, Nathaniel Alexander, Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown,

Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Rd. Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, jun., Gideon Olin, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richard, Cæsar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Richard Winn, and Thomas Wynns.

**YAYS**—John Archer, Simeon Baldwin, Silas Betton, William Chamberlin, Martin Chittenden, Manasseh Cutler, Samuel W. Dana, John Dennis, Thos. Dwight, James Elliot, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, junior, Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Samuel D. Purviance, Tompson J. Skinner, John Cotton Smith, William Stedman, James Stephenson, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, and Joseph Winston.

The engrossed resolution was then read the third time; and on the question, Shall the same pass?

**Mr. PURVIANCE** said, as I am aware that this question will induce a lengthy discussion, which may not be terminated until to-morrow, I move an adjournment.

Motion lost—ayes 30.

**Mr. P.** rose again. Fatigued as I am, said he, by the long time we have remained in session, and not having had time to prepare myself fully on the merits of the question, though impelled to trouble the House with some ideas, they shall be few, and shall be concisely expressed. I am against the amendment, for several reasons. First, because it is calculated to injure the interests of the smaller States. This point having been ably discussed, I shall merely remark, that it is more than probable, should this amendment obtain, the President, for more than one hundred years to come, will be confined to some person within the five large States of Massachusetts, New York, Pennsylvania, Virginia, and North Carolina. The whole number of Electors consists of one hundred and seventy-six, of which eighty-nine make a majority, and the number of Electors attached to these States are ninety-six. The amendment confines the number of persons from whom the election shall be made, if brought within these walls, to three; and two must, at all events, be chosen by one of the larger States. If the Constitution

remains in its present state, the number brought into the House will be five, whereby the smaller States will have a better chance of getting one or other of the two officers. This idea must have operated forcibly on the minds of the persons delegated to consider the Constitution, and had it not been for that number being so large, the smaller States might not have come into the Union. Having come into the Union, with rights so guarded, and expecting a continuance of them, it is now extremely improper to deprive them of that chance which, if not held out, might have prevented the adoption of the Constitution. We know that the Constitution was regarded as a compromise between the large and small States, in which the large States made considerable concessions to the small States, and induced them thereby to come into the measure. If this amendment is not a violation of the compact, why may we not further alter it, and say that the ratio of Representatives in this House may be as one to one hundred thousand, by which some States may be deprived of any representation whatever? One measure is as just as the other.

In the second place, I am against the amendment, because it does appear to me that a sacred right of franchise, a right of choosing our governors for ourselves, for which ourselves and our fathers fought and bled, is now to be made a kind of job, a subject of barter, and the Constitution so altered as that one State may say to another, if you consent to give us Titius, we will, in return, agree to give you Caius; and, if you do not give us Titius, we will not give you Caius. Thus, the five larger States will always enjoy the power of choosing the President. The time may arrive, though God forbid it should! when this country may become corrupt, when persons, candidates for the great Executive offices, may, by promises of ample compensation, influence the Electors. In the third place, I am opposed to the amendment because the office of Vice President is still retained, when the original reasons for it are entirely done away. We know that the principal reasons for creating it were to bring forward two of our ablest characters, without discrimination, and to keep all intrigue from being interwoven in the election of the Chief Magistrate. This object is done away, and the office is retained at the expense of five thousand dollars a year, when the duties attached to it might as well be discharged by some other person, as is the case in every State in the Union, where there is not a Lieutenant Governor. In North Carolina, and in other States, where the office of Governor becomes vacant, it is provided that it shall be filled by the Speaker of the Senate, and eventually by the Speaker of the House of Representatives.

But, in the fourth place, I am opposed to any innovation on the sacred charter, because when we shall have once begun to make incursions on it, there is no knowing at what point of progress we shall stop. It is extremely probable that we shall not stop, until some of the fairest features of the system, are crumbled into dust. This is my strongest reason against the amendment. For, I

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believe, that, if it is adopted, not a session will pass without other amendments, until the whole system shall be destroyed. As for myself, while one fragment of this sacred charter remains, I will hug it to my heart and cherish it as I would the vital juices of my existence. I believe that it is now absolutely perfect, and that, if it shall be once invaded, the work of destruction will not be arrested until the happiness and liberties of our country are destroyed.

Mr. ELLIOT.—I wish to place the reasons on which I shall vote, on the present occasion, beyond the reach of misconception. I do not agree with the gentleman from North Carolina as to the effects of this amendment upon the large or small States. I dread no collision between them. I am in favor of one principle, viz: the designation of office. I am opposed to the other principles contained in the amendment, because I believe them fraught with more evil than this is with good. I therefore think the amendment will make the Constitution worse than it now is, believing as I do that it may bring a man into the Presidency, not contemplated by the people for that office. On this ground, I am opposed to this resolution. I am also opposed to it, because it makes more alterations in the Constitution than the people wish, or than, I think, necessary. It is my wish to preserve all the prominent features of the Constitution in their original simplicity. Another objection with me is, that the language is unworthy of the Constitution; that it is absurd and contradictory; that it commands the Representatives to elect a President; and, at the same time, gives permission not to elect; and that, in such an event, it makes the Vice President President. Believing, therefore, that it is fraught with the most pernicious consequences, and may jeopard the interest of the Union; believing that the people, though now virtuous, may at some future day become corrupt, and that the language is absurd, inconsistent, and undignified, I shall give my decided negative to the resolution, although it embraces an important principle, which I wish incorporated into the Constitution.

Mr. J. RANDOLPH said that the remarks which the House had just heard rendered any apology for addressing them unnecessary. The friends of the amendment had been repeatedly called upon to assign their reasons for supporting it. In order to avoid, as far as was possible, taking up the attention of the House unnecessarily, he had reserved such observations as he intended to offer for that stage of the discussion. To state the reasons which induced him to vote for the proposition then before them, and to repel the imputation of inconsistency which had been thrown out, was his object. He did not hesitate to acknowledge that he would have preferred the amendment which had been sent to the Senate, or one which went to abolish entirely the office of Vice President, to that which was then submitted to their consideration. But on this, as on every other political question, where principles were not at stake, he should adopt the practice which he had heretofore pursued, of acquiring that good which was within his grasp,

without putting everything to risk, merely because he was not gratified in every matter of detail. This sentiment was obnoxious, he very well knew, to the reproach which had been thrown out against gentlemen, for displaying too great a deference to the opinions of the other branch of the Legislature. He had, however, no hesitation to avow his disposition, whilst he adhered inflexibly to certain principles, to vary the modification of those principles, so as to meet the wishes of those with whom he had the honor to act. And whilst he should always feel a disposition to show a deference to the opinion of the Senate, this was, he conceived, an occasion which entitled the sentiments of that body to more than ordinary respect. It would be recollected that the act of the two Houses of Congress on any amendment of the Constitution was very far from being conclusive: that the State Legislatures must finally determine upon any proposition of that nature, which might be submitted to them, and that in making such a proposal we must consult not merely our own opinion, but, whilst we adhered to the object in view, we ought to offer it in that shape which was most likely to prove acceptable to them. The opinion of the Senate, therefore, the immediate organ of those Legislatures, and the surest index of their temper and disposition, was, on an occasion like this, entitled to peculiar respect: for it would be idle to offer to the States propositions which there was no prospect of their accepting.

The amendment in question embracing the great object which he had in view, the designation of the person voted for as President, and of him voted for as Vice President, he was disposed to adopt it, although the modification of that principle was not precisely what he could have wished. But who could expect to be gratified to the utmost extent, in a matter where so many various opinions and interests were to be reconciled! A pertinaciousness of that sort would inevitably have prevented the adoption of the Constitution under which they were then deliberating. It is not, therefore, sir, (said Mr. R.) because I conceive this to be the best possible amendment of the Constitution, but because I believe the Constitution will be more unexceptionable with it, than without it, that I shall give it my vote, and on the same principle, and on no other, did I support that which has previously received the sanction of this House. In most respects the two amendments are the same. The difference between choosing "out of the five highest," and out of "the highest numbers, not exceeding three," will hardly be insisted upon as material. It may not be improper here to remark that the Constitution, as it now stands, and the amendment which we offered to the Senate, are both open to the same criticism which has been reiterated so frequently against that under consideration: the words "five highest" being referable either to numbers, or to persons. The only part of the resolution, therefore, substantially at variance with our own, is that which enjoins on the Vice President the duties of President, in case of a failure in the Electoral body to succeed in an election, in the first place, or of a refusal on the

part of this House to make one, in the second. To this provision it is objected, that a person not contemplated as President may be raised to that high station, because the person voted for as Vice President, by the Electors, may become the President. But how is this position to be reconciled to the fact that the Electors will give their votes under the knowledge that, in this very contingency, the person whom they select for Vice President will be the President, and that in case of the death, resignation, or removal from office of the President, (cases much more likely to occur than that contemplated by this provision,) the Vice President will succeed to his functions. How therefore can it be pretended that the man not intended to be President may succeed to the office, when it is explicitly understood that he may, and will succeed to it, under certain contingencies?

But another objection is taken. It is said that the Electors may fail not only to elect a President, but a Vice President also; in which case, if this House should not elect a President, out of those voted for to fill that office, the Senate will virtually have the election of President, because the Vice President elected by them will exercise the office of President: in which case the rights of the people, and of this body, will be transferred to the other branch of the Legislature?

I scarcely expected this objection, sir, from those who contend that the amendment under discussion narrows the influence and power of the smaller States. I shall not altogether rely on the extreme improbability of such an event, although it appears to me that it is as likely that the Senate, in such a state of things, should fail to elect a Vice President as that we should fail to elect a President. Remote as such an event is, for it depends on a failure of the election either of President or Vice President by the Electors, in the first instance, (a circumstance extremely improbable when a designation takes place,) and afterwards, on a refusal on our part to make a choice, out of those offered for our selection,—I shall not dwell upon its being a case barely possible, but will ask whether the right of this House to make an election can be abandoned but with its own consent? but upon a refusal on its part to exercise its right of choice? And how the power of the people can be said to be affected by such a transfer of the right of election from this House to the other, when it is notorious that in electing in that House the vote is taken by States, those of the greatest population and wealth having no more influence than the smallest? Is not the Senate as likely to prove a faithful organ of the will of the States as this House voting by States? In conceding this point, therefore, what do we give up? It is because the amendment contains the principle of designation; because in the first place the Electors must fail to elect a President; in the next place, they must fail to elect a Vice President; in the third place, this House must refuse to exercise their Constitutional right to choose a President out of those in nomination for that office; because all these events must concur before an election can devolve upon the Senate; and then

they are restricted to a small number of those nominated for the Vice Presidency—persons, too, who will be selected by the Electors with a view to this contingency, because the wealth and population of the States have no more influence here in an election than they have in the Senate. It is for those reasons that I am in favor of the amendment. Even if this possibility of the election of a Chief Magistrate devolving on the Senate were more objectionable to me than it is, I would not sacrifice the discriminating principle contained in this resolution for a bare possibility. In case of a refusal however on the part of this House to make an election, will it not be better that the functions of President should be exercised even by a person nominated by the Electors and appointed by the Senate, than that there should be an interregnum, as gentlemen have chosen to style it? Are not the people as willing that such an officer should discharge those duties as that they should devolve upon a President *pro tempore* of the Senate, (a person who could never have been contemplated on his election to a seat in that body as succeeding to the Presidency,) who will necessarily act as President in case of the death, resignation, disability, or removal from office, both of President and Vice President—events equally probable, and in my opinion more so than that contemplated by this amendment? But perhaps I shall be told that this position is inconsistent with a doctrine advanced by me at the outset, that I should approve an abolition of the office of Vice President. But the sole condition on which I would consent to such an abolition would be an immediate re-election in case of a vacancy in the office of President. I never could assent to the exercise of those powers by a President *pro tempore* of the Senate longer than was absolutely necessary to make a new election by the people.

Having stated some of the reasons which will induce me to vote for the resolution on your table, permit me, sir, to reply to some of the observations which have fallen from the gentlemen from North Carolina and Connecticut. The first of these gentlemen (Mr. PURVIANCE) is of opinion, that the small States would never have come into the Union if the Constitution had originally stood as it is now proposed to amend it. A plain answer offers itself to this remark. If the small States are as hostile to this amendment as the gentleman supposes, they have only to put their veto upon it. The dissent of five States destroys it. If so little judgment has been displayed by the friends of this measure as to insure opposition from all the States except those five States which the gentleman styles large States, in contradistinction from the other twelve, which he denominates small States, it was scarcely worth the trouble of the gentleman and his friends to make so vigorous an opposition to it. But it is because I do not believe the resolution to be so drafted as to insure opposition from the smaller States; because I judge of the temper of those States as well by the approbation which three-fourths of the Senate have given it as by that which has

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been expressed in the course of this discussion from various quarters, that I am anxious for its adoption. The gentleman says that we had as well alter the ratio of representation from thirty-three thousand to five hundred thousand, and thereby deprive the smaller States of any vote on this floor. Surely the gentleman does not mean to say either that Congress have not the power to enlarge the ratio of representation, or that such increase would be injurious to the smaller States. The gentleman has expressed too great an attachment to the Constitution not to be well acquainted with it. He must know that each State is entitled by it to at least one Representative on this floor, and that by an increase of the ratio of representation, the number of Representatives might be reduced to that of the States, and the influence of the largest be only co-extensive with that of the smallest member of the Union; and this was a well known objection urged to the adoption of the Constitution. But at last the gentleman from North Carolina candidly confesses that he is averse to any alteration of the Constitution whatsoever. One of my greatest objections to the Constitution is the difficulty of obtaining desirable amendments, which increases with the increasing number of the States. Thinking differently from the gentleman on this point, he cannot be surprised at my acting differently. But he has surely little cause of alarm when he recollects that we possess merely the initiative in this business, and that the assent of three-fourths of the State Legislatures is necessary to give validity to what we shall do. I consider this as an answer to the charge of precipitancy, thrown out by the gentleman from Connecticut, even if it were not fully answered by the history of this amendment. One of the same nature had passed that House during the present and the preceding session. It had been the theme of conversation and discussion, both in and out of doors; and now we are charged with precipitancy, although the resolution had to pass through the ordeal of three-fourths of the States. But a more serious charge is brought against this amendment. It is denounced as opening an endless source of venality and intrigue. But to my mind the present system is more favorable to such mischiefs, and it is because I regard it as the death-blow to all intrigue; because I do not wish chance to preside where there ought to be choice; because I want no blind ballot, under cover of which intrigue or corruption may take shelter, that I advocate the resolution before you. From the manner in which some gentlemen have expressed themselves on this subject, it would appear that they had had personal knowledge of some such agency heretofore. Whether such enginery has been brought into action I cannot undertake to affirm; on this subject I am totally in the dark, nor do I wish to be enlightened.

Much too has been said of the spirit of party, exhibited on this occasion, and on what is due to decorum on so solemn a subject. We ought not, we are told, to touch the Constitution under the irritation produced by the struggle of contending

factions. Most sincerely, sir, do I wish that the American public could have been spectators of this whole transaction, or even that every word and every act which has passed within these walls on this day could go forth to the world. I am aware that this is impossible. But were it otherwise, I would willingly trust the issue of this question to the decision which should be given to the other. I would fearlessly leave the public mind to decide from what quarter party spirit and irritation have been manifested; by whom that conduct has been pursued which is calculated to reduce this House from the station which we ought to hold, and to lessen us in the eyes of the nation.

Mr. R. GRISWOLD.—The gentleman from Virginia cannot expect us at this late hour to go into a discussion of the merits of this important question. He has himself cautiously avoided going extensively into them. Instead of showing us that the amendment is not incompatible with the spirit of the Confederacy, he has contented himself with stating that though he objects to one part of it, it contains one principle to which he is friendly, and therefore he will vote for it. Without assigning his reasons, he simply says he will vote for it. Whatever gentlemen may profess, they cannot expect us at this late hour to go into a fundamental view of the principles this amendment contains. I therefore repeat the motion to adjourn, that we may to-morrow have the opportunity of discussing the merits of a question so important to the interests of the States.

The question was immediately taken on adjourning and lost—ayes 47, noes 75.

Mr. ELLIOT.—As an adjournment has been denied, it would not be considered as out of order, even at this late hour, to answer the elaborate speech of the gentleman from Virginia. I rise however to answer only one part of it. I wish, with the gentleman from Virginia, that a correct view of the whole proceedings of this day may go to the public, that they may be enabled to judge whether there has not been manifested, during the course of this business, rash precipitancy, indecorum, and party irritation. With the gentleman from Virginia I am totally in the dark as to any intrigue heretofore exercised. That gentleman says, from certain circumstances, he is induced to believe some persons know of some such intrigue. This I conceive to be an attack on the minority which ought not to pass unnoticed. How far it is correct to impute such motives to gentlemen entitled—if not by the brilliancy of their genius, yet by the public suffrage—to the same degree of respect with himself, I will not undertake to say. It is no privilege of a Representative to say, I believe you a corrupt, intriguing—

Mr. J. RANDOLPH wished the SPEAKER to decide whether he had said any such thing.

Mr. ELLIOT.—Such was my understanding of the gentleman's expression; the allusion was of a peculiar nature, and might be intended to impeach the motives of men of different political opinion from himself, or to impeach the motives of one or

two members who generally agree with him. I know not his view in making the observation; but if the proceedings of this day shall correctly go to the public, I shall be much mistaken if they will not be of opinion that there has been more indecorous language in the speeches of that gentleman than in all the others put together. I hope the language and conduct of gentlemen on this day may be recorded; I hope this will become a subject of investigation with the people; and I hope that posterity will have no occasion to impute to them party spirit, rash precipitancy, indecorum, or anything else, that tends to lessen the respect which it is my sincere wish that the measures of this House should always command. I fear much, however, that the proceedings exhibited to-day will constitute a scene on which posterity will not delight to dwell, that they will wish it blotted from the annals of history, and that gentlemen themselves will, in the cool moments of reflection, regret that it ever existed. With one more remark I shall close what I have to say. If in the course of this debate any imputation has been aimed at my moral or political integrity, or if any hereafter shall be made from any quarter, however clothed in the language of brilliancy or decorated with the flowers of genius, I shall on all occasions meet it with contempt. I feel bold in the conscious purity of my motives, and I believe that the people I represent will never charge me with corruption or intrigue.

On motion of Mr. SMILE the House adjourned about nine o'clock.—Ayes 65.

#### THURSDAY, December 8.

Mr. J. RANDOLPH, from the Committee of Ways and Means, on a resolution referred to them touching the expediency of discontinuing the office of Commissioner of Loans in the several States, made a report, with a concluding resolution, that it is inexpedient to discontinue said office.

The report, with accompanying documents from the Secretary of the Treasury, was referred to a Committee of the Whole on Monday.

The bill sent from the Senate, entitled "An act to divide the Indiana Territory into two separate governments, was read twice, and committed to Mr. LUCAS, Mr. MORROW, Mr. CHITTENDEN, Mr. LYON, and Mr. CLAGGETT.

A memorial of sundry sugar refiners, citizens of, and residents in, the State of Pennsylvania, was presented to the House and read, stating certain inconveniences and losses to which the memorialists have been, and are now, subjected, in consequence of a construction given at the Treasury Department to an act passed the sixth of April, one thousand eight hundred and two, entitled "An act to repeal the internal taxes," in the case of duties accruing on sugars refined within the United States prior to the first day of July, in the same year, which were not delivered from the refineries until after that period; and praying that Congress will take the premises into consideration, and grant such relief therein as to their wisdom shall seem meet.

#### AMENDMENT TO THE CONSTITUTION.

The House resumed the consideration of the question which was depending yesterday at the time of adjournment, "that the House do now agree to the resolution of the Senate, in the form of a concurrent resolution of the two Houses, proposing an article of amendment to the Constitution of the United States, respecting future elections of President and Vice President."

Mr. GREGG.—Entertaining the opinion, Mr. Speaker, that the amendment to the Constitution now on your table had been already sufficiently discussed, I did hope that the question on its final passage would have been decided yesterday. I thought the minority could have no just cause of complaint that they had not been heard, and I believe the people of the United States will concur with me in this sentiment, when they attend to the lengthy speeches on the subject, with which the newspapers have been filled for several weeks. The great anxiety of the majority, discovered by their loud and repeated calls for the question, convinced me that they also were fully satisfied with what had been said, and were willing to rest the decision on the discussion that had taken place. It appeared, however, that one gentleman of the majority entertained a different opinion. At a late hour last night he again entered the field of discussion, and delivered his sentiments at considerable length. A decent respect for the minority requires that they should be heard in reply. I shall now attend with patience to gentlemen on both sides; and, although I had intended to take no part in the debate, I shall ask the indulgence of the House while I briefly state the reasons that will influence my vote, and notice the most prominent objections that have been urged by gentlemen in the opposition.

I am willing to acknowledge, Mr. Speaker, that the Constitution far surpasses in excellence, nay, that it is infinitely superior to the constitution of another country, that has been styled "the most stupendous monument of human wisdom." I believe it to be the best that now is, or perhaps that ever was, in the world. The names of those sages, to whose wisdom and patriotism we are indebted for it, will, I trust, be always recollected by the American people with gratitude and pleasure. But, sir, it is a Constitution of experiment. The wise framers of it, with all their sagacity, could not foresee how far its various provisions would, in practice, correspond with their views, or answer their expectations. It looked fair in theory, but its real excellence was to be tested by experience, and, therefore, a provision was inserted for introducing amendments, when experience should prove the propriety of adopting them. This, it must be acknowledged, is an admirable provision, and also a convincing evidence of the candor of the Convention. Conscious of their own fallibility as men, they did not, as some have since done, proclaim the Constitution to be perfect. They foresaw that experience might discover imperfections, and, therefore, they inserted the fifth article, declaring that "the Congress, whenever two-thirds of both Houses shall deem it necessa-



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ry, shall propose amendments to this Constitution; or, on the application of the Legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution," &c.

The article respecting the election of President and Vice President, I have understood, was suddenly adopted by the Convention. A variety of modes of choosing the Chief Magistrate had been suggested, none of which received the approbation of a majority. Fatigued with the subject, all parties united in support of the mode contained in the article as it now stands, which was not proposed until all the other plans had been rejected. Plausible, however, as it appears, and supported, as it has been, by the opinions of very eminent men, it is on experience found to be imperfect. The result of the last election evinces this beyond the possibility of a doubt. Had the discriminating principle now contended for been at that time in the Constitution, could the Electors have designated on their ballots who they voted for as President and who as Vice President, no person will pretend to say they would not have made a President, and by that means saved the country from that anxious solicitude, from those distressing fears and alarms which were excited by the uncertainty and delay which attended that election in the House of Representatives. This single experience appears to me superior to a volume of abstract reasoning on the subject. It is, in my view, an unanswerable argument in favor of the amendment.

Another reason in support of the amendment, which has great weight with me, is, the public sentiment being so long and so loudly expressed in its favor. Several years have elapsed since it was first brought into view. It originated in the East; it has been echoed from the South, and the people of the West are also calling for its adoption. It has been advocated in turns by men of all political parties. A federal member from the federal State of New Hampshire, if I recollect right, first introduced it into Congress. A proposition, the same in substance, was afterwards renewed by a federal member from the then federal State of South Carolina. In the two last instances it has been brought forward by republican members, from republican States—first, by one of my colleagues from Pennsylvania, a republican State, and, during the present session, by a gentleman from Virginia, which is said to be also republican. New York, Vermont, Tennessee, Ohio, and, I believe, Kentucky, have, by their Legislatures, expressed their approbation of the measure, and invited its adoption. Federalists and Republicans, in every part of the country, thus uniting in recommending the measure, is conclusive evidence that a majority of the people, however they may differ on other political questions, are in favor of the leading principle contained in the amendment. This circumstance led me to conclude that it would have received but little opposition in this House. The members from those States that had been most forward in recommend-

ing it, I did expect would have given it their unanimous support.

To obtain such an amendment as would confine itself to the principle of discrimination, was the only object I had originally in view. That principle I consider as of the first importance. It would, I think, be sufficient to guard against the inconvenience attending the present mode of election. If the Electors are authorized to designate on their ballots who they vote for as President and who as Vice President, there is little danger of their failing to make an election, while the country continues to be divided, as it is at present, into two great political parties. I would even now prefer a proposition embracing that single principle to the amendment on the table, not only because I think it adequate to the attainment of the object in view, but, also, because I believe, in that form, it would be most likely to receive the sanction of the States. There is, I acknowledge, one feature in it, as it now stands, which recommends it to my approbation, and gives it, in my opinion, a decided preference to the proposition which went from this House to the Senate. In the event of the Electors not making a President, the House of Representatives were, by our proposition, restricted in their choice to the five highest on the list of the persons voted for as President, provided no one had a majority. By the amendment on the table, they are confined to the three highest on the list. I prefer the number three before five, because it evidently brings the choice nearer to the will of a majority of the people. This was so fully discussed, and so clearly elucidated on a former occasion, that it would be an unpardonable trespass on the patience of the House to dilate further on it at this time.

But the most objectionable part of this amendment, in the opinion of many gentlemen, and against which the gentleman from Vermont, in particular, has levelled his keenest darts, is that which vests the Vice President with power to discharge the duties of President, in the event of a President not being elected. The passage stands thus: "And if the House of Representatives shall not choose a President, whenever the right of choice shall devolve on them, before the fourth day of March next following, then the Vice President shall act as President," &c.

It is acknowledged that, at first view, the principle contained in this provision appears liable to objections, but it must be admitted that much may be urged in its defence; nay, I will even go so far as to say, that on a fair and candid investigation, the objections will lose their weight, and the principle be found not to be incorrect, considering the bearing it may eventually have on the people, on the Electors, and on the House of Representatives, in making a President. Let us, sir, for a moment, examine the probable tendency of the principle. The possibility, or if you will, the probability, of the Vice President being placed in the Presidential chair, through the obstinacy or neglect of the House of Representatives to make an election, may have a powerful influence over the Electors, and produce a concentration of their

votes in favor of one candidate. The same consideration may operate as a considerable excitement to the people, to be careful in their selection of characters as candidates for the office of Vice President. The additional chance now given of his being called to discharge the duties of President, will determine their choice in favor of such men as are entitled to their esteem and confidence, next to the persons whom they may nominate for President. It will also operate as a stimulus to the House of Representatives to make an election. They will not be likely through obstinacy to suffer themselves to be divested of the power of making a President, when that power constitutionally devolves upon them. They will be very reluctant to yield it to the Senate. Their immediate responsibility will not permit them either to refuse or neglect making a choice. They will consider themselves more immediately the organ of the public will, even for the purpose of election, than the Senate. They are so. The long period for which the Senators are appointed, clearly justifies this position. But without resorting to arguments, I will elucidate it by an example taken from the State in which I live, (Pennsylvania.) At the late election for President, the members of the House of Representatives from that State gave a vote for the present Chief Magistrate. Had the vote been given by the Senators of the State, there is no doubt it would have been different. The question then was, who speaks the voice of the people? Look to the result for an answer. As soon as the Constitutional period expired for which their Senators had been appointed, they supplied their places by successors, whose political opinions they supposed to be in coincidence with those of their members who composed the majority at the Presidential election.

But there is one provision in this part of the amendment which is certainly of very considerable importance. As I have several times observed, I again repeat, I do not think the Electors will be likely to fail in making an election. Should they, however, not agree, I cannot conceive that the House of Representatives will be so lost to a sense of duty, as either to refuse, or neglect complying with their Constitutional obligations. But should an election fail there also, we will have by this provision a person Constitutionally vested with Presidential power, until a President is elected. Surely it is better to have a Constitutional officer to discharge these important functions, (and that officer chosen too in the first instance, with an eye to such contingency, infinitely preferable,) than to suffer the office to become vacant, and thereby expose ourselves to all the evils incident to such a state of things, as would be unavoidably produced thereby. I could have wished that this provision had extended further, and directed the vacancy to be supplied by an extraordinary election within one year from the commencement of such vacancy. But as it is providing for a remote contingency, one which may not, and I hope will not happen in a century, I think we may trust it as it is. As the Constitution now stands, "In case of the removal of the President from office, or his

death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President."—Art. 2, sec. 1. This is only adding one other possible, and barely possible, for it is not a probable case of vacancy of that office, and it is securing against all the dangers and confusion to be dreaded from an interregnum.

The objections that have been raised to the amendment generally, I think, all resolve themselves into two. First, the danger of innovating on the Constitution, and, second, the jeopardy in which the small States will be placed by its adoption.

I perfectly accord in sentiment with gentlemen in all their remarks respecting the great caution to be observed in touching the Constitution. No abstract, theoretic reasoning could induce me to alter it in many of its parts; but when on experience it is found to be defective, as in the case in the present instance, I think we are bound to exercise our Constitutional privilege in obviating that defect.

With respect to the objections drawn from the danger to which the small States are to be exposed if the amendment prevails, I confess, Mr. Speaker, my mind is not capable to comprehend their force. From whence do gentlemen derive those fears and alarms with which they endeavor to persuade us their minds are so distressed? Do they know, or have they ever heard of the large States forming combinations against the interest of the small ones? I live in a large State, and I declare I never heard such a thing even hinted. Such an idea, I am persuaded, would receive no currency in that State. Such a combination is unnatural—it cannot obtain.

Should local considerations ever have any influence on the election of our Chief Magistrate, that period I believe is far distant. While the country is divided into two great political parties, (and I believe it will long continue to be so divided,) each party will endeavor to select the most prominent character, whose political sentiments are in unison with their own, and place him in the Presidential chair, without any regard to local situation. His politics will be the criterion by which he will be judged, without any reference to his being an inhabitant of the Eastern, Middle, or Southern sections of the Union.

How far would the ambition of the small States extend? Look into the Constitution, and see what ample provision is there made for their security. In the Senate, a distinct and entire branch of the Legislature, they are placed on the same footing with the largest States. There, Rhode Island, which is but a ninth part of Massachusetts, has an equal vote with that large and populous State; there, Delaware is on equal ground with Pennsylvania, although it contains but little more than one-eighteenth part of her population. In this House, also, their weight is equal to that of the large States in the important election of President, when that power devolves upon the House. The Constitution declares, "that in choosing the President, the votes shall be taken

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by States, each State having one vote." What greater powers, what more extensive privileges, can the small States desire? Do they expect the large States to surrender their independence, and bow at the shrine of their omnipotence? Sir, I live in a large State, and although as a Representative of it, I would spurn every idea of combining with other large States to injure the small ones, or to divest them of the Constitutional standing and influence which they possess in this Union, yet I hope I shall never be influenced by the alarms now attempted to be excited on their account, to surrender the rights secured to the large States by the same Constitution. Important as the federative principle is which pervades the Constitution—which links the States together in a common band—which places the small States on a level with the largest in the Senate, and in this House in the exercise of one of its most important functions—equally important, at least, is the democratic principle it contains, which secures to the people the right of choosing their public agents. To enable them to exercise this right with a greater probability of succeeding in making a choice, and thereby preventing the removal of it to a different set of Electors, is the main object of the amendment. It scarcely appears proper to dwell so much on a subject calculated to excite State jealousies.

Should the large States, contrary to the ordinary and natural course of things, attempt to form such a combination as has been alluded to, I would ask how it is to be effected? They are separated from each other in their geographical situation by the intervention of the small States. There is no commercial connexion betwixt them, except what is confined to their maritime towns. Distant from each other, they differ considerably in their customs and manners. They can derive no possible advantage from breaking up the political standing of the small States, and therefore I am unable to discover any force in the objection that has been so much relied on respecting their danger. Should local considerations ever have influence in deciding this important business, and combinations be formed to effectuate that object, the combinations will be betwixt States that lie contiguous. There may be Eastern, Southern, and Middle associations. In such a state of things, which, however, is by no means probable, Pennsylvania might unite with New Jersey, Delaware, and Maryland, but surely never with Virginia or Massachusetts.

Upon the whole, the objections to this measure do not appear to me to be by any means conclusive; and the arguments in its favor are of such weight as to satisfy me that the vote I shall give is in conformity with the Constitution, is sanctioned by the experience already had on this subject, and is in unison with the wishes of a great majority of the people in every part of the country.

Mr. EUSTIS considered the subject important, as it went to effect a considerable change in the existing provisions of the Constitution, in the mode of electing the Chief Magistrate; and also important, as it had long occupied the attention of the

States and of the people. When, said Mr. E., I consider the resolution from the Senate, and compare it with that which passed this House, I find several marked differences. It contains three provisions. The first provides for a designation of the persons voted for as President and Vice President, which is a modification rather than a change of principle, and is in unison with the amendment sent from this House, and with the general sentiments of the people—perfectly so with the sentiments of the State I have the honor to represent. While on this point, it may be proper to state, that, when I some time since mentioned the instructions given by the Legislature of that State on this subject, I did it to show that the great principle of this amendment had been sought for by all parties in the United States. So far, then, as it embraces the discriminating principle, I am in favor of it. I find that the instructions alluded to leave some latitude with regard to the modification of the amendment, so as to conform it to the opinions of the two Houses.

I do not conceive that the amendment sent from this House effects any alteration in the essential features of the Constitution; for, when the Constitution provides that two persons shall be voted for, it follows that one must be voted for as President, and the other as Vice President, and the discriminating principle only tends to carry this view into effect. So far, this resolution meets my entire approbation.

The second provision of our amendment was, that this House should choose the President from the five highest on the list: by the resolution from the Senate the number *five* is struck out and *three* inserted, in my opinion unnecessarily. Has any serious inconvenience resulted from the practice under the existing rule in the Constitution, as to the number of persons from whom a choice shall be made? We have heard of none. The inconvenience experienced arose from another source. This provision, therefore, of the amendment, appears to me exceptionable on this account. It is also exceptionable on account of the language used, which appears to me not to partake of that precision which at present characterizes every part of the Constitution.

The third provision contained in this resolution is more objectionable than the second, because it is predicated on the presumption that the House of Representatives will refuse to make a choice, in case the election of a President is devolved on them. It goes, in my opinion, to provide for a contingency that will never happen.

I am inclined to think that the designating principle will remove every solid objection to the present provisions of the Constitution. I wish not to touch the principles of that instrument. Not changing its principles, I wish the election to remain as heretofore, with this sole difference, that the person voted for as President shall be designated by the Electors. I object also to this provision, as countenancing and inviting intrigue, and because it removes from the House of Representatives the responsibility under which they are placed by the Constitution. It appears to me, that in

case two rival candidates are presented to the House for a choice, by means of the influence of the Vice President the election may be protracted till the fourth of March, or that, in other words, the Vice President will become President.

I am sensible that this is only a proposition made to the several States, and that it must be submitted to their decision before it becomes part of the Constitution. At the same time, I am convinced, that going forth as an act of this Government, it will have great influence with the State Legislatures. It ought, therefore, before it is submitted to them, to be so correct and explicit that the collected wisdom of the country may be presumed to adopt it.

I repeat it, the first part of this amendment—that which establishes the designating principle—is a desirable object. I am sorry that I am reduced to the alternative of taking other provisions to obtain this, or otherwise to lose it. I, however, yet entertain a hope of accommodation, and that gentlemen will suffer this principle, desired by the people, to go to them unencumbered. Under this hope, I move a recommitment of the resolution to the Committee of the whole House, and that it be made the order for Monday next, that we may, in the meantime, send a message to the Senate to desire them to answer our resolution. The Senate may be induced, by this step, to take up our resolution and recede from theirs, when they find that it is not agreeable to this House. If after this measure on our part they prove tenacious, and insist on their resolution, we shall then have to meet the question of agreeing to it in the whole, or of abandoning everything. I do not know whether I shall not be induced to vote for the whole resolution, when I am satisfied that a better could not be had. I do not perceive any reasonable objection to this course of procedure. I do not think a decision of this important subject should be precipitated. The resolution is certainly less perfect than its best friends could wish it; therefore, I think it proper to recommit it.

MR. LOWNDES.—It is with very great pleasure that I rise to second the motion of the honorable gentleman from Massachusetts, (Mr. EUSTIS,) because I believe if it is adopted it may be the means of preventing this House from precipitating itself into a dilemma in which it will not be very honorable for it to be placed. It is the practice of this House, in its ordinary business of legislation, to correct inaccuracies of expression when they are pointed out. Ought it then, sir, on so important an occasion as that of changing the Constitution, to pass a resolution replete with obscurity? Verbal criticisms are said to be unpleasant, and we have had enough of them. Suffice it to say, that gentlemen who press the passing of this resolution in the very form in which it came from the Senate, give it a very different meaning. It is, sir, with equal pleasure I heard the very handsome eulogium passed upon our Constitution by the gentleman from Pennsylvania, who says he thinks it better than even the constitution of that country which has been termed the most stupendous monument of human wisdom. I hope, sir, that it

is better; but the eulogium of the gentleman is, to me, an admonition to beware how I meddle with it. I think, sir, that the gentleman might have gone on and applied to our Constitution the observation of a celebrated writer upon that of England, that, "though in some of its parts its policy was 'not obvious, and did not strike the superficial observer, yet, when tested by practice and experience, was discovered to be founded in the greatest wisdom and ability.'" It is this feature of our Constitution which, above all others when examined into, is discovered to be founded in that wisdom and utility. Considering the Constitution was the deliberate result of the best talents and integrity of our country, exercised at a time when party spirit did not influence our Councils, I am unwilling to give into any alteration of it which is not dictated by an imperious necessity. I am unwilling, sir, to familiarize the public mind to innovations upon this compact. I am afraid, sir, that any alteration we may make, however unimportant it may appear to us, may lay the foundation and make necessary other alterations, and that the nice adjustment of the different interests of the States may finally be destroyed. What, sir, is the result of the attempt to make a single alteration in your Constitution? For this House, certainly, when it passed the resolution sent to the Senate, did not contemplate anything more than a designation of the persons voted for as President and Vice President; but the resolution now before us contains three distinct, specific, and independent alterations. If we vary the principle established by the Constitution for the election of our Chief Magistrate, and by that means diminish the influence of the small States in the choice of that officer, what security have we that at another time the combined principle upon which the people of the different States are represented in this House may not also be varied, and the influence of the State which I have the honor of representing, and others similarly situated, be lessened on this floor?

In the few observations which I have to submit to the House, I will endeavor to avoid a repetition of arguments which have been already advanced. The two leading objections made to the Constitution, as I understand them, and which are made the ground-work of the proposed alterations, are, that by the double ballot two persons may be returned to this House having an equal number of votes, and a majority of the votes of the Electors, and, in the event of this House not determining which of the two shall be the President, the peace and tranquillity of the country may be hazarded, and that the person not designated by the Electors for the President, may, by a concurrence of circumstances, be elevated to the Chair of State. Though the policy of a double ballot may not be obvious at first sight, from the best reflection I have been able to give the subject, I am of opinion that it is founded in wisdom, and the more I examine it, the more confirmed I am in the opinion. The uncertainty which of the two candidates will be the President, is to me a strong argument in favor of it, because it is calculated to render an access to the office of President, through the me-

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dium of cabal and intrigue, less practicable, and thereby diminishes the inducement, which would be held out by the proposed amendments, to a resort to those practices: the intrigues of a candidate, if successful at all, may result in his being only the Vice President, a situation certainly not calculated to inspire or satisfy the expectations of an ambitious man. The object of the Constitution is to produce the election of fit persons to be magistrates, and, compared with this great object, the elevation of a favorite character is of trifling importance. This country is not so destitute of talents that one man only can be found qualified for the office of President. I have no doubt that this country abounds with men eminently qualified. I have no doubt that every State in the Union can furnish men who would administer the Government advantageously. The uncertainty who will be the President, will impose upon the Electors the obligation of voting for none but men of high character, and, if they do their duty, no inconvenience can arise to the country. It is true that two persons may be returned to the House having an equal number of votes, and a majority of the votes of the Electors, but it is an event which I think it improbable will ever again occur. I think it much more likely that the elections will come into this House in consequence of no candidate having a majority of votes, than from the cause first stated. The men heretofore elected to the office of President, were conspicuous characters during the Revolution; it was their conduct during that period which acquired them the confidence and attachment of the people; they must ere long be off the stage of life. It appears to me that the time is not far distant when the elections will be much more likely to come into this House from the defect of any candidate having a majority of votes, than from the other cause; but, Mr. Speaker, suppose what has happened should again occur, and that two candidates with an equal number of votes should come into the House; it will then be the duty of the House to determine which of them shall be President. We then assume the character of Electors, we become Electors under the Constitution equally with the original Electors, and I do not see but that we should represent the wishes of the people as correctly; we are equally chosen by the people, and, in some of the States, more immediately than the original Electors. But I do not apprehend the mischief which some gentlemen have predicted from this occurrence. I trust that there will always be found more patriotism in this country, more of the spirit of conciliation, than would permit, by a pertinacious adherence to a favorite candidate, to endanger the peace of the country. The person not designed by the Electors may indeed be the President; but if the Electors do their duty, and vote for none but men of high character, no injury can result to the country. Establish the discriminating principle, and the Electors, calculating upon the durability of human life, will, in their choice of Vice President, be influenced by considerations by which they ought not to be governed. They will select some popular man for

qualities other than those which would fit him for the station of President. They will say he is a good man—he can preside with credit in the Senate. But he may be called to the exercise of higher duties, and the country exposed to all the evils of a weak and inefficient Administration. As the Constitution now stands, it may indeed happen that the person not designed by the Electors may indeed be the President, but I think it very improbable. But if this resolution is adopted and becomes a part of the Constitution, it appears to me inevitable, that the person designed for the Vice President will be the President, and that under circumstances of very great disadvantage. The resolution goes to defeat the very object which has been stated as the ground of an alteration in the Constitution. It says, “and if the House of Representatives shall not choose a President whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the Vice President shall act as President, in the case of death or Constitutional disability of the President.”

This part of the resolution, Mr. Speaker, I think fraught with the greatest mischief to this country. We alter our Constitution to prevent, among others reasons, the person from being President who was not intended by the Electors; and in the same resolution we prescribe, under circumstances much more likely to happen, that the Vice President shall act as President. But, sir, this is not all, you make it the interest of this Vice President to prevent an election taking place in this House. You allure him by the greatest temptation which can be held out, to exercise all the arts of intrigue, bribery, and corruption, to elevate himself, and the whole patronage of the Executive is made subservient to his success. I do not think that a person who comes into office through these means will ever make a good Magistrate. He will not be at liberty to pursue those measures which the good of the country may require and his own judgment dictate. I think it the worst of all possible provisions that can be made. There are other objections to this resolution, but, as they are of minor importance and have already been noticed, I shall forbear making any comments upon them. The gentleman from Virginia said that the difficulty of obtaining amendments to the Constitution had been made an objection to it, but this resolution departs from the language of the Constitution, and instead of the ratification of the Legislatures of three-fourths of the States, requires that of three-fourths of the Legislatures of the several States to its adoption. In every point of view in which I have considered this resolution, it appears to me objectionable, nor can I see that necessity exists for any alteration which alone in my opinion can justify us in meddling with the Constitution.

Many gentlemen have disclaimed being influenced upon this occasion by party views or considerations. I am unwilling to impute such views to any gentleman, particularly those who disclaim them; but I think the House ought in justice to its own character to avoid even the appearance of its being actuated (when altering the Consti-

tution) by improper motives, and taking up the subject at this time, when the election of a President is so near, does exhibit an appearance not very favorable. If it was for no other reason, I would wish this resolution deferred until the next Presidential election is over; it might then be taken up and acted upon without any imputation or appearance of its being designed to meet a particular case.

Mr. ELLIOT.—While the present subject is under discussion I shall not quit it until hurled from my seat by the hand of death. As to the doctrine of submitting to the will of a majority, when that majority itself is not ascertained, I must again consider myself as opposing a torrent which threatens the destruction of my country. I have listened with extreme pleasure to the remarks of the gentleman from Massachusetts (Mr. EUSTIS.) To-day the terms Federal and Republican have been introduced into the debate. The gentleman from Pennsylvania, (Mr. GREGG,) I am persuaded, in the privilege he exercised on this occasion, did not mean to use any improper terms. That gentleman has had the candor to say that one of the majority having risen in the debate it ought to be protracted till every member is heard. It is never my custom to adopt the language of admiration; panegyric is one thing, truth another. That the proposition now under consideration comes from a republican quarter cannot be doubted. I glory that the gentleman who made it is an eminent republican, who stood in the high places of danger when we, as the poet says, "were mewling and puking in our nurses' arms." I rejoice that we can take ground so high, assumed by one whose republicanism cannot be questioned. What objection can gentlemen have to recommit a most important proposition, and to postpone it for three or four days?

Is not this republican, to invite to cool reflection the agitated minds of the members of this House and of the people? If this is not republican, then what is? The object we have in view is most decidedly, most gloriously republican. What is that object? To support the dignity of the Representatives of the people. This I repeat, is gloriously republican. I am glad such an opportunity is presented to evince to the American people, the sincerity of our republican principles; those principles I will ever support, in imitation of the bright example of the Revolutionary patriot who has made this motion. I will die at my post, if necessary, to support them. Sometime since, after long and deliberate discussion, we passed a resolution which was some weeks ago sent to the Senate. There it seems to sleep the sleep of death. The Senate have not deigned to inform us, whether they have deigned to bestow on it a moment's attention. It has been superseded by a resolution to which I trust in God that the American people are not prepared to agree; by a resolution bearing on the face of it the most manifest want of precision and of haste, that I ever saw; and we are now told that it is disrespectful to inquire whether the Senate will or will not bestow the least attention. I have no wish to wander into the wide

field of discussion; I wish only to make a few observations in favor of the reference. The object of the motion has been already stated. It has been stated that it comes from a republican quarter, from one who cannot be considered as a federal man, or as actuated by a desire to defeat the great object of the amendment. It may further be stated, that the prospect begins to brighten; the dark clouds which yesterday hovered over us have passed away. I have been assured by several republican members, that it is their sincere wish that this amendment should be altered before it is passed. I know of one republican member, from the republican State of Pennsylvania, (Mr. HOGG,) who desires an opportunity of introducing an amendment; such a one as, if adopted, may remove his objections to the resolution. This is a forcible argument in favor of a recommitment, and can only be answered by a recurrence to the principle of the omnipotence of a majority. Unless amended, I feel a strong presentiment that the resolution on the table will not obtain a Constitutional majority. I believe it will be rejected by republican men, on republican principles, as anti-republican, as tending to destroy the Constitution, and to introduce intrigue, venality, and corruption. I believe the great mass of the American people to be virtuous, but I believe there are bad men in both parties. I believe there are in both parties some men of aspiring and unprincipled genius, who, if advanced to the banks of the Rubicon, would not, as Cæsar did, pause for a moment. Believing that this motion comes from a republican quarter, that it will have a republican effect, by preserving our Republican Constitution, and being one who can never be in favor of anything not republican, I must support this motion, hoping there is that spirit of wisdom in the House that will insure its adoption.

Mr. GREGG.—I understand the gentleman as saying it would save time to send a message to the Senate to require an answer to our resolution. I did believe the gentleman too well versed in parliamentary proceedings to fall on this idea. I do not recollect such a proceeding ever to have occurred. Each House will undoubtedly act as they see proper.

After a few observations by several gentlemen on the propriety of sending a message to the Senate, as intimated by Mr. EUSTIS, the question was taken on the preliminary motion to recommit, and passed in the negative—ayes 49, noes 59.

Mr. GODDARD.—After what passed in the House yesterday, respecting the resolution on your table, and after the remarks which have fallen from the gentleman from Pennsylvania, (Mr. GREGG,) I presume it will not be thought strange that gentlemen opposed to a concurrence with the Senate in the passage of this resolution, should express to the House their reasons for that opposition. I rise Mr. Speaker, to do this. Before I enter into a consideration of the merits of the resolution, let me notice a remark which fell from the gentleman from Pennsylvania, that the time had been when the adoption of the discriminating principle, in the choice of President and Vice President

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was, to use the gentleman's own expression, a federal measure. Now the gentleman considers it as a republican measure, using his own terms of distinction. But sir, if the time has been when it was a favorite measure of opposite parties, I will venture to say that the time never was, when the subject has been fully discussed, examined, and understood. Prior to the last Presidential election, and when I suppose the gentleman would consider this as a federal measure, a resolution containing the discriminating principle came from the Legislature of New Hampshire to that of Connecticut, of which at the time I was a member, and that Legislature, although in the language of the gentleman, it was a federal measure, rejected it, I believe unanimously. It was at that time opposed by those who chose to call themselves republicans. The subject was not then very fully discussed, and I believe was rejected rather from a repugnance to innovate upon the principles of our Constitution than from a full perception of all the beauties and advantages which belong to this feature in the Constitution. But, sir, ever since that time, the more the provisions of the Constitution, as it now stands, have been examined, the more beautiful, useful, and wise, do they appear, and the more reason have I had to be satisfied with the vote then given. Let the simple principle be stated, and almost any person, without much examination, would ask why shall not the Electors be permitted to distinguish by their votes which man is intended for the office of President, and which for Vice President? What good reason can be given? This measure is now said to be called for by the voice of the people; it has received the sanction of several State Legislatures, yet, as I have never seen any newspaper discussion of it, nor any debates of those Legislatures, I am inclined to believe, that it has been acted upon by first impressions only, and the alteration been considered as proper, without much inquiry into the motives which induced the framers of the Constitution to adopt its provision.

Let me premise further, that I consider it as our duty to proceed with the same care, and examine with the same deliberation, as if the proposed amendment became, by our vote, a part of the Constitution. I state this, because I understood a gentleman from Virginia, (Mr. RANDOLPH,) on a former day, to advance a different doctrine. That gentleman considered us as only initiating a proposition, which could not become part of the Constitution until it shall be ratified by the Legislatures of three-fourths of the States. This is correct; but the inference drawn from it, that it is, therefore, unnecessary for us very seriously and carefully to consider it, before we give it the sanction of our votes, is not correct. The Constitution has here erected one of its most powerful barriers against innovating upon its principles. It must not only be agreed to by us, but two-thirds of both branches of Congress must concur in proposing amendments. If we adopt any other rule of conduct than that of giving to this proposition the most deliberate attention, it will be dangerous in the extreme. The Legislatures of some of the

States call upon Congress to propose amendments. The Senate take up the subject and agree to it, because the States, and the people require it. It comes to us, under the confirmed influence of the vote of the Senate, and the Legislatures. We adopt it, because they recommend it; and we send it to the States, with accumulated credit. They adopt it because we recommend it. In this way, sir, it will, like the description which we have of fame, acquire strength by going. It is, therefore, our duty seriously to examine the merit of the amendment, and not give the sanction of Congress to an improper resolution, under an idea that, if it is wrong, the States themselves will reject it.

Received in this point of light, the resolution on your table assumes a very important aspect. It goes to change entirely a fundamental principle of that Constitution, under which, for more than fourteen years, the people of the United States have enjoyed unexampled national happiness and prosperity. It goes to change that Constitution in a part of all others the most delicate and dangerous, that which respects the choice of a Chief Magistrate, to whom is confided the whole Executive power of an extensive country.

I consider it as more dangerous to change the principles in the Constitution by which a Chief Magistrate is elected, than any other; and a mode once adopted, ought not to be altered until experience has proved to us its disadvantages. Gentlemen seem disposed to join in extolling the virtue, wisdom, and integrity of the sages and patriots who framed the Constitution. Why not then permit their work to remain untouched until we feel or clearly perceive the evils which it does, or may produce? The framers of the Constitution adopted the principle which we are about to explode, at a time when no party spirit prevailed on this subject; when they had no rival candidates in view to fill the office. They discarded the discriminating principle, which we are about to adopt, when all eyes were directed to and all hearts united in the man who was designed to become the first President of the United States under the Constitution. And nothing shows in a stronger point of light, how highly they valued the principle of election, by double ballot, contained in the Constitution, than that they were willing even to put at hazard the election of that man, rather than to lose a principle which was calculated to give future peace, tranquillity, and liberty to their country. We are now about to destroy this principle. Before we do this, let us pause and inquire, what are the evils to be feared under the Constitution, as it now is? What are the benefits to be gained by the alteration proposed? I say feared, because no evils have as yet been experienced. Gentlemen tell us that the Constitution as it now stands is calculated to promote intrigue, venality, and corruption, and that the amendment is to give a death-blow to these enemies of our repose and Republican institutions. If this be true, it is certainly a formidable objection to the Constitutional provision. But when gentlemen say this, they deal only in general terms. Why not condescend to tell us how the Constitution is calculated to produce these



evils? Has it been shown to us, by experience, that such is its operation? If so, at what period of our Government has it done it? When did this intrigue, venality, and corruption show itself? At the first or second Presidential election? The thought will not be harbored for a moment. At the third? No one will pretend it. At the fourth? The friends of this amendment will not surely say that the present Chief Magistrate owes his election to intrigue, venality, or corruption. Reference has been often had to the last Presidential election for instruction on this subject. But what does that prove to us? Why, that two men, whom the friends of the present amendment chose to select, and recommended to the people of the United States, were elected; and that they now fill the very offices for which gentlemen themselves say they were intended. Experience then proves to us, not that any evil has actually occurred, but that there was a period when they dreaded an evil. And what was that evil? They feared that their own favorites might have been misplaced! On a review of our proceedings under the Constitution, it cannot be surely said, that experience has proved to us that the provisions of the Constitution as they now stand are pernicious. If experience does not furnish this evidence, are gentlemen capable of pointing out to us clearly how the Constitution is capable of producing the evils which they fear? I heard a supposition stated, that hereafter a party might arise in this country, hostile to a republican government, and favorable to introducing a monarchy, and that the Constitution must be amended to prevent this. To be able to prevent this is one of the very reasons why the Constitution ought not to be altered. If such a party should ever arise in this country, they will either be a majority or a minority. If a majority, the amendment to the Constitution now proposed to be adopted furnishes them with the ready means of designating their man, without competition or embarrassment, and elevating him to the Chief Magistracy. But suppose they are a minority? Leave the Constitution as it now is, and they will be compelled to have for their President one of two republican candidates, who shall be presented to them by a republican majority. The Constitution has therefore erected a most effectual barrier against the intrigue and corruption of any aspiring individual, who may be disposed to trample on the liberties of his country. But the moment you introduce the designating principle such an individual may proceed directly towards his object—set all his engines to work, and operate with effect, having no competitor and but a single object in view.

Suppose a proposition should be made to alter the Constitution, so as to elect one man President for life? Would not gentlemen startle at it? I think they would, and yet, in my view of the subject, the proposition on your table falls little short of doing it. The advantages which the designating principle holds out, will always be in favor of the present incumbent of office. When I say present incumbent, I would be understood to refer to the Chief Magistrate for the time being—at any time. Once elevated to that high station, and the

double ballot being abolished, he will, by means of his extensive powers, and the patronage which he possesses, always have the means of exercising a species of indirect corruption, if he should be ever disposed to use them. Preserve the Constitution as it now is, and he will have little inducement improperly to exert himself to maintain his station, because he must always be uncertain whether he can operate to effect. I am therefore, clearly of opinion that the provisions of the Constitution as it was originally adopted, are wisely calculated to prevent intrigue and corruption; and that the amendment on your table, if substituted in lieu of those provisions, is calculated to open the door to those evils, and perpetuate the Executive power in the hands of a single man; and am therefore opposed to it.

I am not disposed, Mr. Speaker, to go at this time into arguments which have already been advanced, with much force, respecting the influence of this change upon the rights of great and small States—I can add nothing to their weight by a repetition. But I may be permitted again to call the attention of the House to the important and singular additions which the Senate have annexed to the discriminating principle. We sent a resolution to the Senate in which we declared that, in case no choice should be made by the Electors, a President should be chosen from the five persons highest on the list. The Senate have not adopted this, but sent down to us the number three. Without attending at this time to verbal criticism, or adverting to the extreme ambiguity of the sentence which contains the number or numbers of persons, or the classes of persons, out of which the House of Representatives are to choose, in case no election is made by the Electors; I will only say, that whether *three* in that sentence is made to refer to persons, or to classes of persons, highest on the list, it is, in either view, the most objectionable *number* which the Senate could have selected. I am not disposed to cultivate local feelings, or distinctions arising from geographical situations, but, sir, such is the extent of this country, such its diversity of interests, manners, and habits, that parties will rise up hereafter, influenced by such considerations. Look at the United States, and consider what may, and probably will be, the great sections of the Union most likely to be united in their views respecting a Chief Magistrate. The Eastern States will form one section, the Middle, another, the Southern a third, and the Western, a fourth. This last, from its great accessions and rapid increase, will soon be the most influential of the whole. Suppose each of these sections of the Union should set up their candidates for the offices of President and Vice President—from a disunion, no election is made—a choice devolves on the House of Representatives. By this resolution a choice must be made from the candidates presented by three of these sections of the Union, to the total exclusion of the fourth; and which that fourth will be, is not difficult to predict. The adoption of this part of the resolution is, on this account, extremely objectionable.

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But, sir, the Senate have in this resolution proposed to alter the Constitution in another important particular, and have varied essentially from the resolution which we sent to them. No less, in effect, than to take the choice from us, the immediate Representatives of the people, and assume it to themselves. And we are called upon to submit to this! I speak not now under the impression of State, or any other local feelings, but as the Representative of a free people. In case no choice is made by the Electors, the Constitution has confided that choice to the Representatives of the people, without even the concurrence of the Senate. By the resolution on your table, we surrender that power wholly, in certain events, to the Senate.

Having stated this objection on a former day, when that part of the resolution was under discussion, a gentleman from Virginia, (Mr. RANDOLPH,) in reply to my objection, gave two answers—One, which he considered as conclusive, was, that although the Senate, if this amendment becomes part of the Constitution, may elect a Vice President, who may become President of the United States for four years, yet that this could only happen upon a failure of the House of Representatives to do their duty, and make a choice. Did the gentleman, before he gave this answer, consider that the provision in this resolution, to which the objection is taken, is predicated wholly on the idea that the House of Representatives will fail to make a choice? The provision itself supposes that a case will happen, in which no choice will be made by the House of Representatives. It is introduced to guard against the evils which it is supposed may result from such an event; and is wholly idle and nugatory, unless we are to suppose that such a case may happen. Another answer which the gentleman gave to this objection, but which he did not consider as conclusive as the former, was, that in case an election should devolve on the House of Representatives, the vote must be taken by States; and he says that the Senate are peculiarly the Representatives of the States, and will be as faithful guardians of their rights on such an occasion as the members of this House.

Is this, sir, a reason for our resigning to that body a power which the Constitution has confided to us? It is true that the Senate, in performing this high duty, may act as wisely and with as much circumspection as the Representatives would, under the same circumstances.

But let it be recollected that they are chosen for a much longer period than the Representatives, and may not feel the same responsibility as they would. Besides, the Senate would not vote by States when electing their President, who may become the President. It is true, that all the States are equally represented in that body, but it does not follow that the vote would be taken, as in this House, by States. A member from a State may be absent; if present they may disagree in sentiment. That may happen in this House, it is true, where the Representatives from any State shall be equally divided. But the States here, being represented by much greater and generally un-

equal numbers, it is much less likely to happen. The election, therefore, in almost all its features, will be essentially changed, in case the amendment should prevail. And I believe the time has been when the people of this country would have startled at the idea of conferring on the Senate of the United States the power of giving them, in any event, a Chief Magistrate. But gentlemen say it is desirable to provide for the contingency of no choice being made, either by the Electors or the House of Representatives, that the United States may not be without a Chief Magistrate. Admit it. But why not provide for a new election immediately by Electors, and designate some officer of the Government to administer in the meantime? This is easily done, and would be much preferable to taking, for four years, such President as the Senate may give us.

As, therefore, I can see no necessity for resigning this power to the Senate, of giving to the United States a President in any event, I shall feel constrained to resist this insidious claim of theirs, by my vote against the resolution which they have sent us.

Mr. G. W. CAMPBELL.—When this resolution came from the Senate to this House, it was not my intention to have spoken on the subject. I had determined to vote in favor of it, and let the measure itself justify my conduct in so doing. But so much has been said on this floor with regard to the interests of small and large States, and the effect which it is insisted this resolution will have on the rights of the former, that I conceive it my duty, having the honor to represent (in part) one of those small States, to state some of the reasons that induce me to vote for the resolution, and to be of opinion that its adoption will not, in the manner contended for, infringe the rights of the small States, or diminish their relative weight in the General Government. I am, sir, of opinion that our Government was formed by the people of the United States, in their capacity as such, by their immediate representatives in the General Convention, and not by the several States convened in their State capacities. The words of the Constitution are: "We, the people of the United States, in order to form a more perfect Union," &c., and not we, the United States, in our State capacity, which I presume would have been the language used had the framers of the Constitution intended to have formed a Government for the States united in their State capacities; and though the State interests, as such, are regarded in our Government and their sovereignties represented, whereby it may be considered as partaking in some degree of the federative principle, yet this will not prove our Constitution to be a Confederation of States, in the extent contended for in their State capacities; but only shows that the framers of the Constitution intended, by thus regarding the State rights and sovereignties as such, to qualify and limit the operations of the General Government with regard to the several State Governments and their respective interests and rights. The laws that are made by the General Government are binding on the

people of the United States at large, and not on the State Governments; for though the State Governments are limited by, and bound not to violate the Constitution of the United States, yet they certainly cannot be controlled, or in any manner bound by the legislative acts of the General Government. This, I conceive, shows, in a very strong manner, that the Union is not a mere Confederation of States. And considering the subject in this view will not tend to produce a consolidation of the General Government so as to encroach upon the rights of the State sovereignties; for the operations of the General Government being felt by the people only in their individual capacities, the State Governments will not be affected thereby so as to infringe their powers or endanger their independence; provided the General Government, in exercising its legislative powers, keep within those bounds prescribed by the Constitution, and does not assume the right of legislating on subjects that properly belong to, and are cognizable by the respective State Governments. I will here observe, that the object of every free Government is to lay down a rule of conduct for the people who live under it, by the observance of which, their general welfare and happiness may be promoted. Whenever, therefore, the intentions of the people in framing their Government can be ascertained, I conceive it the duty of those who administer the Government to pursue those intentions as nearly as possible. I have always considered it to be the intention of the framers of the Constitution, and the true spirit of that instrument, that the Chief Magistrate shall be chosen by the people, through their Electors, and not by the States represented in this House; and that the provision for electing the President by the House of Representatives, in case no election should be made by the Electors, was intended to guard against an event that might happen, which, if unprovided for, would stop the operations of Government, and not as a mode of election that was desired by any portion of the Union, or contemplated to be introduced when it could be avoided. I conceive, therefore, such measures ought to be adopted as would prevent, as much as possible, the necessity of resorting to that mode of election. It is certainly of primary importance that the people should have that person to govern them that possesses their confidence in the highest degree. In him they will repose the protection of their rights and the security of their interests, and will acquiesce with the greatest readiness in the just measures he may pursue. It will, I presume, be admitted that in all free Governments the will of the majority must be considered for the purposes of Government as the will of the nation, and that it ought, therefore, to prevail, and control the will of the minority when opposed to it. This, I conceive, sir, is a fundamental principle in our Government. I am, therefore, of opinion that whatever part of our Constitution is found in its operations to contravene this principle ought to be altered, and so modified that the will of the majority of the people should be pursued. This, I conceive, sir, is the case with

that part of the Constitution prescribing the mode of electing the President and Vice President now proposed to be amended; it puts it in the power of the minority to control the will of the majority, and elevate a man to the Presidential chair who did not receive a vote from the majority for that office. According to the present provision of the Constitution, two persons are voted for by the Electors for President and Vice President, without designating which of them is voted for as President and which as Vice President. Suppose the majority nominate two candidates, the one intended for President and the other for Vice President, and vote for them accordingly. It is well known that the Electors, who are presumed to express the will of the people, have in view at the time they vote which of these persons they intend shall be President and which Vice President, though they are not permitted so to designate them in voting. In this case the minority, by voting for the person intended by the majority to be the Vice President, and not voting for the person by them intended to be President, will contravene the intentions of the majority, and place in the Presidential chair a person not designed by the majority, or by one of them, for that office, nor in most cases agreeably to the minority, but preferred by them in consequence of not possessing in so high a degree the confidence of the majority as the person by them intended for President, and therefore most likely to favor the measures of the minority. And the person thus elected would, in all probability, become suspected by both parties, and possess the confidence of neither. Hence a very serious inconvenience would arise; the majority, being disappointed, would become dissatisfied, and the minority would not have the man of their choice, but one from whom they expect some favor, in consequence of having contributed to his elevation; and it is confidently believed the peace of the nation would, in such a case, be more endangered than if a person decidedly the choice of the minority as President had been elected to that office. To avoid these and many other inconveniences likely to arise from the present mode of electing the Chief Magistrate of the nation, I am decidedly of opinion that the Electors ought to designate by name the person they vote for as President and the person they vote for as Vice President. By this mode, a fair and unequivocal expression of the public will may be obtained, and will have its due weight—the man declared best qualified by the general voice of the nation to direct the Government, will by that voice be placed in the Presidential chair; he will be more likely than any other to give general satisfaction in conducting the affairs of State; and this will very much contribute to promote the general welfare and happiness of the people.

I will notice another reason here, which I have not heard mentioned, that in my view has considerable weight in proving the expediency of adopting the designating principle. I am of opinion the election of the Chief Magistrate of a nation ought not to be left in such uncertainty, that it would depend on a mere casualty or chance who

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should be the person chosen to that office. This is the case according to the present Constitutional provision for electing the President. A difference of opinion among the majority, with regard to the person who shall be Vice President, or a greater unanimity in their choice of a person as Vice President, than in that of President, may, contrary to the design of the Electors, by giving the person designed as Vice President the greatest number of electoral votes, (though all were given with the view of making him Vice President only,) operate to the exclusion from the Chair of State of the person intended by the majority, and also of the person wished for by the minority, to fill that place, and elevate to the First Magistracy a man who did not receive one electoral vote from either party with the design of putting in his hands the reins of Government. This I conceive, sir, is contrary to the representative principle in Government, which I understand to be, that the sense of the nation should be made known, by a fair and unequivocal expression of the public will, and when thus made known should govern. But it has been said that the minority ought to have some share in the Government, and have a chance of obtaining the man of their choice to fill the second office in Government, if they should not expect to succeed in electing him to the first, or at least, that they should have an opportunity of voting for that person as Chief Magistrate that might be their choice, of the two persons nominated by the majority, to fill the office of President and Vice President; and it is stated that the present mode of voting for those officers, without designation, is calculated to answer these purposes. I am, sir, of opinion the voice of the minority should be expressed, and fairly heard in Government, and that it should have its due weight consistent with the principles on which that Government is founded; but I am not willing that the minority should rule the nation, or have it in their power to defeat the will of the majority, as I conceive this would sap the very foundation of our Government; and the present mode of electing the President and Vice President, without designation, cannot strengthen the minority, or give them a share of the Administration of Government, in any other way than by enabling them to contravene the will of the majority. They have not thereby a fairer prospect of obtaining the person of their choice to fill the second office in our Government, than they have to fill the first; to succeed in their choice as to either, they must probably vote for those nominated by the majority; and the ultimate consequence is, that if they succeed, the majority must yield to their wishes; therefore, according to the present mode of election, the major part of the society have only the power of nominating, and it will, in most cases, rest with the minor part to make the election from such nomination. This I conceive, sir, does not accord with the general sense of the American nation in theory, and will not operate more to the general satisfaction in practice. But it is insisted the proposed amendment is calculated to infringe the rights of the small

States, that they have certain advantages secured to them by the present provision of the Constitution, directing the Electors of President and Vice President to vote for two persons without designation; and in requiring the votes in the House of Representatives, for President, to be given by States, in case the event should bring the election into that House, and also, in that the President is to be chosen in such event from the five highest on the list of those voted for. These provisions are said to constitute a part of the original compact between the States, and it is insisted, that although this amendment preserves the right of voting by States in this House, yet it diminishes the chances of the election coming into this House, and changes the number of persons from whom the President is to be chosen in such an event, from the five highest on the list, to the persons having the highest numbers not exceeding three, on the list of those voted for as President; and thereby, it is pretended, affects the interest of the small States, as they will not so frequently have the opportunity of exercising the power of voting for President by States, should this amendment be adopted, as they otherwise would have had; and also in that they will be more limited in the number from whom the choice is to be made. These are the only arguments I have heard advanced on this part of the subject by the opposite side of the House, that appear to me to possess sufficient plausibility to merit the examination, and these it is confidently believed, upon a fair investigation, will not support the objections made to this amendment, on the ground of its affecting the interests of small States.

It is certainly true that our Constitution, in some of its features, partakes of the nature of a compact, bottomed on a compromise of powers and rights between the small and large States; and this compromise will be found to be confined chiefly to the share which the several States have in the National Legislature, and the consequent effect which that modification produces with regard to the number of Electors of President and Vice President to which each State is entitled, according to the provisions of the Constitution; but it will not follow, as a necessary consequence, that the right of voting by States in this House for President, (in the event of the choice being left to the House,) was considered as an advantage granted to the small States in order to induce them to come into the Union. I cannot be of opinion that this was considered, by the Convention who formed the Constitution, as an equivalent given to the small States for any rights or powers by them surrendered to the General Government. If the small States considered it so, they must have esteemed those rights and powers thus surrendered of very small importance indeed. For the event in which they could have the opportunity of exercising the right this mode of election secures to them (of voting by States,) is extremely uncertain, and might not occur once in a century. And though it has once happened, it is evident the small States did not in that case unite, nor did the interests of the large and small

States seem to be taken into view as opposed to each other. But, sir, let me ask what real benefit can the small States expect to derive from this mode of election, more than the large States? Have they the power to bring the election into the House of Representatives at their pleasure? They have not. It is a mere casualty, in which the small States can have no more agency than the large States. But what interest have the small States in bringing the election into the House of Representatives if it were in their power? Is it very probable that in such an event, there would be a candidate from either of the small States on the list of those from whom this House would be authorized to choose the President? I presume it is not. But is it to be expected that the small States would in such an event combine, so as to succeed in electing a President in opposition to the large States? Would the small States to the east and northeast, unite with those to the south and west? This may be possible, but certainly it is not very probable. Their positions are remote from each other, and each neighboring on large States; their local interests are different, and they differ in politics as much from each other, at least, as they do from the large States. I am then, sir, inclined to conclude, that all the benefit the small States could expect to derive from the election of President coming into this House, would be only the opportunity of throwing their weight and influence, as each of them might feel disposed, into the electoral scales, in favor of such of the candidates from the large States as might be most agreeable to them. And this cannot be deemed such an interest as would induce the small States, at the least possible hazard of the national tranquillity, even to desire such an event. But, I am decidedly of opinion, it is the substantial interest of the small States that the election should be decided by the Electors, and not come into this House. It is their interest that the Government should be administered according to its genuine principles, that no jarring interests should so come into collision with each other, as to produce a convulsion in the nation or endanger the fate of the Union. So long as this is the case, so long will the small States and their respective rights be in perfect security; and if they ever should be in danger, it will be when the bonds of union between the States are broken asunder, and each left to protect its own interests. But I am of opinion the mode of voting by States is productive of advantages of a different kind from those contended for by the opponents to this amendment. It was probably intended to guard the interests of the small States in some degree, in case the event should happen of the election coming into this House, and not as an advantage to the small States, that would induce them to endeavor to bring about that event; it was intended as a wholesome rule in applying a remedy in the case of a possible evil, and not as a measure to invite that very evil that seems to have been dreaded. It was probably considered by the framers of the Constitution, that, in case the election came into the House of Representatives, unless the votes were taken by

States, the weight and influence of the large States would render them too powerful for the small, because the large States could, if disposed, more easily act in concert, and unite their powers and influence in order to effect their purpose, as there would be but few of them necessary to constitute a majority of votes in this House, and it would be more difficult for the small States, being more numerous, and of course their interests more variant, to combine so as to act in concert. To this may be added that the mode of voting by States is less liable to the inconveniences that might arise from voting *per capita* in so large a body as this is, on such an occasion, which would in some degree partake of the nature of a popular election. From this view of the subject, I conceive it will also result, that the framers of the Constitution in fixing on the five highest on the list of those voted for as President and Vice President, as the number of candidates from whom this House should choose the President, in case the event should render such a choice necessary, could not have intended thereby to confer any favor on the small States, more than they would have done by fixing on the two, three, or four highest on the list; as it has been shown that the small States could not be benefitted by the election being decided in this House. I am therefore decidedly of opinion, that the relative interests of the large and small States had no influence whatever in fixing the number five in the Constitution. But I conceive the number was adopted by the framers of the Constitution as the least exceptionable to the States in general, when connected with the present mode of voting for President and Vice President without designation. According to that mode of election, three persons might have each a majority of the votes of all the Electors, and if the whole number of votes be an equal number, (which will be the case at the next election,) four persons might divide the votes equally, each having within one of a majority of the whole number of Electors appointed; and this is a case that might have been considered as likely to take place, upon the supposition that two persons would be nominated and voted for by one political party, and two other persons by the opposite party; therefore, less than the four highest on the list could not with any reason have been adopted, from whom this House should choose the President in case no election was made by the Electors; and the framers of the Constitution thought it advisable to add one to this number, making it the five highest on the list, conceiving, in all probability, that this would have an effect to prevent an equality of electoral votes being given for different persons, and thereby be more likely to produce an election by the Electors. It must also be taken into view that from this number of candidates (five) both the President and Vice President are to be chosen, and on that ground might be considered as small a number as could reasonably have been fixed upon. Here, sir, I cannot help noticing a circumstance in this debate which presents to me a very singular aspect, and that is, that most of those who have opposed this amend-

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ment on the ground of its affecting the interests of the small States, are Representatives from large States. These would seem to become the protectors of the rights of the small States, as if they were not sufficiently tenacious of their own interests. Is this anxiety in those gentlemen, for the security of the small States and their rights, really serious, or is it intended to awaken the fears of the small States and alarm them, in order to defeat the proposed amendment? I trust the Representatives of small States will see their true interests, and will not be influenced by such measures. With regard to the verbal criticisms made on the manner in which this resolution is expressed, I deem it unnecessary to enter into any examination of them, except so far as they relate to the number of candidates from whom the President is to be chosen by this House, in case the event should render such a choice necessary. As the resolution was printed and laid on our tables, the words alluded to are, "from the persons having the highest number, not exceeding three, on the list," &c. In this, the word number, being singular, might occasion some doubt in the construction of this clause, whether the word three related to person as its antecedent, or was intended to relate to number; but as the words in this resolution as it came from the Senate, and as it is now considered under discussion, are, "from the persons having the highest numbers not exceeding three on the list," &c., the word numbers being plural, the word three must relate to numbers as its antecedent, (with which it agrees,) not to persons; and the word numbers evidently means aggregate numbers, each number including all the votes given for one candidate, or for all the candidates that shall have an equal number of votes. Therefore, the "persons having the highest numbers not exceeding three on the list," &c., will include all those persons whose names shall be on the three highest numbers on the list of those voted for as President, and may not exceed three persons; but in case of different candidates having an equality of votes, may be more than three, four, or five. Hence I conceive the difference between the three highest numbers, and the five highest persons on the list will not be very material, as there will seldom be more than five persons on the three highest numbers, and there may frequently be more than three persons; and as there are some members in this House who would prefer the five persons highest on the list, and others would prefer the three highest numbers, while some would prefer the two or three persons highest on the list, &c., I trust this will not be considered as a material objection, as it seems to come as nigh the wish of a majority of this House as any number that could be adopted. I should myself, sir, (as I had the honor of stating in this House on a former occasion,) prefer the two highest persons on the list of those voted for, &c., under certain modifications, in case of an equality of votes, to any other number, because it would confine the choice of President to such persons as should appear to have the strongest evidence of possessing the confidence of the people. But I do

not consider the difference between two and three persons, or between three persons and three numbers, or between three numbers and five persons, of sufficient importance to induce me not to vote for either, in order to obtain the principal object of this amendment, that of designating the persons voted for as President and Vice President. I will only claim the further indulgence of the House while I make a very few remarks on the provisions in this resolution, by which the Vice President is to act as President, in case the House of Representatives shall not make a choice of President. I am free to declare that I would have been as well satisfied with the resolution had this provision not been annexed to it. But I cannot consider this as introducing a dangerous principle, or likely to produce any real inconvenience. It only provides who shall administer the Government in the event of the House of Representatives failing to elect a President, by which the election is brought into this House. The House must next fail to make a choice, before the fourth of March next following, and a Vice President must also have been elected before this provision can operate, so as to vest the Vice President with the reins of Government, which seems to be the event so much dreaded—but one which may not happen for ages. But it is said that this provision will have a tendency to introduce a scene of corruption into the House; that the friends of the Vice President will endeavor to prevent the election of the President in order that the Vice President may succeed to that office; that this will be effected by the promises of lucrative offices, of favors, &c., or in fact by bare corruption. This is indeed supposing the members of this House will become more degenerate than the mass of mankind. I should presume we might rely on their continuing to possess as much public virtue as is usual in public bodies, and if this be admitted, I conceive there can be no serious cause of apprehension from this provision. But the arguments advanced, if they prove anything, would prove too much; they would prove, with almost equal force, that you must not provide for a successor to the President in the cases of his death, resignation, or inability, lest the person appointed to succeed him should be induced to cause his assassination, or use other corrupt means to produce his removal from office, in order to open the way for himself to ascend the Presidential chair. But this would certainly be destroying the necessary and useful provisions of Government on a mere possibility, and it is trusted groundless fears, of their being abused.

The gentleman last up, (Mr. GODDARD,) has asked if any inconveniences had been experienced from the present provision in the Constitution for electing President and Vice President? To this inquiry I might answer, that if this part of the Constitution be evidently defective, and calculated to produce inconveniences in practice, and such as are of a very serious nature to society, it would be extremely impolitic to wait until we had experienced all the evil consequences that would arise from it before we attempted to make

the necessary amendment. I should suppose we ought to apply the remedy as soon as we discovered the defect, and thereby prevent those evils that it might otherwise bring on society. But I may further answer that gentleman that, on a late occasion, well remembered by every gentleman in this House, a very serious inconvenience was experienced by the Union in consequence of the operations of that part of the Constitution now proposed to be amended. On this occasion the Legislative functions of the Government were suspended, and the aspect of affairs seemed to excite very serious apprehensions in the most delicate minds, with regard to the external peace of the nation; the feelings of the American people were wound up to the highest degree of sensibility; they felt indignant at the attempt so obstinately made to contravene their wishes, and deprive them of the person of their choice to direct the affairs of the nation; and the agitation of the public mind rose to such a height as seemed to threaten a general convulsion. In consequence of this event, the voice of the American people, from almost every quarter of the Union, has called for the amendment; the same sentiment has been expressed by the Legislatures of most of the States; and are not these the strongest evidence of the general wish of the nation? Will you then, sir, when the voice of united America seems to demand this amendment, refuse to comply with that demand? Will members of this House, on account of a mere verbal difference of phraseology, or an unimportant provision for a case not likely to occur in an age, refuse their assent to a measure embracing a principle necessary to secure the tranquillity of the Union? I trust they will not. I hope we shall in some degree yield up our preference for particular modes of expression, and our opposition to a provision of minor consideration, in order to unite in adopting, so far as respects us, this amendment, and in so doing, perform an act that will be agreeable to, and joyfully hailed by nine-tenths of the American people.

Mr. HOGG having declared himself in favor of the principle of designation, but adverse to the other provision of the resolution, moved to recommit it, for the purpose of obtaining the following amendment:

"For the term of one year; an extraordinary election of President and Vice President, shall be made by Electors, who shall be chosen in the same manner, and shall give their votes on the same day, as is directed by the Constitution in the case of a regular election of a President and Vice President; and in case of such extraordinary election, the votes shall be transmitted to the seat of Government, and the election ascertained and concluded in the same manner; and if no election shall be made by the House of Representatives, in the same manner as is provided by the Constitution in relation to the regular election of President and Vice President; and the person who shall be elected at such extraordinary election, shall be the President until the next Constitutional period of election."

The motion to recommit was lost—yeas 40, nays 63.

Mr. TAGGART.—Mr. Speaker, unaccustomed

as I am to parliamentary discussions, I feel a degree of diffidence and embarrassment to which many others are probably in a great measure strangers. I have no intention to enter into a lengthy discussion, or investigation of the resolution now before the House. But as I stand here in my place the Constitutional Representative of a section of the American people, perhaps equal in point of respectability to other sections represented on this floor, and as I suppose some of my constituents expect that I will, upon certain occasions, do something more than give a silent vote upon such questions as may from time to time come before the House, I request the indulgence of a patient hearing, whilst I offer two or three reasons for the vote I shall give upon the resolution under consideration. I have not the vanity to suppose that I shall be able, by anything I shall offer, to influence the members of this House to vote in a different manner from that in which they have already made up their minds. Probably no discussion which can now take place will alter so much as one single vote. I think it likely that the proposed alteration in the Constitution, comprised in the resolution now before us, will pass this House by the Constitutional majority, and I know not but it may be finally ratified by a sufficient number of State Legislatures to make a part of the Constitution of the United States. If this event should take place, I shall, nevertheless, feel a satisfaction in having done my duty, in endeavoring, though feebly and unsuccessfully, to arrest the progress of a spirit of innovation, which I fear (God grant that my fears may prove groundless!) will undermine, and finally destroy our national compact.

I have not heretofore been particularly hostile to what is called the mere designating principle. I have sometimes inquired within myself, what good reasons could be assigned why the Convention which framed the Constitution left that article in its present form? It never having been a subject of investigation in the small circle of my acquaintance, I viewed it as a matter of but little consequence either one way or the other; and I am persuaded that, heretofore, this inattention to the merits of the question has been general in the part of the country to which I belong. But after seriously reflecting upon the subject, and attending to the discussions which have taken place in this House, both upon a former occasion and since the resolution was transmitted from the Senate, as well as listening occasionally to the debates in that body, I have received that evidence which, in the view of my mind, has more weight than a thousand metaphysical arguments, that the Constitution ought not to be meddled with. When I have beheld the many difficulties and perplexities attending every attempt to adjust the proposed alterations to the various bearings of the other parts of that instrument, I have been led to admire the wisdom and discernment of the framers, as well as to have a more realizing sense both of the difficulty and danger of innovating. Innovations in a national system, I humbly conceive, ought never to be admitted without the



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most imperious necessity. They are, at all times, a matter of hazardous experiment. But where is the imperious necessity in the present case? I trust it does not exist. If our national system is, in the main, a good one, though it may not in every particular completely meet the wishes of every individual, or even of every State in the Union, which, considering that it was formed upon a compromise, uniting a variety of different, and, some of them, clashing interests, was an event rather to be desired than expected, it ought to be like the law of the Medes and Persians, which altered not. But that it is, in general, a good one, we have had the most striking practical demonstration in its beneficial effects; in the almost unexampled national prosperity and advancement enjoyed under that system. In one respect I must be permitted to differ widely from an opinion advanced during the discussion of this question, by a gentleman from Virginia. I don't know that I should be correct in saying that he advanced it as his own opinion; I believe he rather spoke of it as the prevailing sentiment of particular sections of the Union, at the period in which the Constitution was adopted. The sentiment alluded to was, that the Constitution was objectionable on account of the difficulty of obtaining amendments. I believe, on the other hand, that the facility wherewith alterations may be proposed and obtained, is not one of the least of its imperfections. That provision of the State Constitution of Massachusetts, which, agreeably to the general sentiment and impression of the people, was at the time of its establishment, considered as an obstacle not easily surmounted in the way of its revisal, until after the term of fifteen years had elapsed, was, in my opinion, a wise one; though objected against by many at the time of its adoption, about six or seven years afterwards there was a peculiar season of ferment and irritation throughout a large portion of the Commonwealth. Had it not been for that provision in the Constitution, which threw an obstacle in the way of its revisal for a limited time, it is probable it would then have underwent some important alterations. This public sentiment happily subsided, and when the fifteen years elapsed, the period when the voice of the people was called for, to see whether they wished for a revisal, I do not recollect that there was found one town or corporation in the Commonwealth which manifested the desire of an alteration, in so much as a single article. At the end of another fifteen years, it is probable the public sentiment may be found still the same. Had as great, or even greater obstacles been thrown in the way of alterations in the Constitution of the United States, for the term of twenty years, instead of its being exposed to frequent alterations under the name of amendments, so much am I opposed to innovations in a national system, I could not have viewed it as less perfect. Upon this general principle I am at present opposed to any alteration whatsoever in the Constitution of the United States.

But further, Mr. Speaker, another reason which, as it is a point of delicacy to mention, I pre-

viously declare that I consider it as having reference to no individual but myself. I make no doubt but every gentleman on this floor can reconcile the part he takes in this business, with the utmost purity of intention. But so far as it respects myself the consideration of taking a solemn oath to support the Constitution of the United States is of considerable weight. I cannot see how I could act consistently in taking such an oath to day, and endeavoring to introduce an alteration in one of its important principles and provisions to-morrow.

It further appears to me, that should alterations in our national compact become really necessary, this House, or even both Houses of Congress, are the most improper of all places to originate them. That the Senate and House of Representatives have a jointly Constitutional right to originate amendments, is a point not to be contested. But in allusion to a remark which, upon another occasion, fell from a gentleman, who occupies a conspicuous station upon the floor of this House, that there were certain provisions or powers in the Constitution, which Congress never had exercised, and which probably there would be no occasion to exercise, and which he hoped never would be exercised; I am free to declare it as my opinion the power of originating amendments to the Constitution ought to be the last of all constitutional powers to put in practice. If any thing in the world approaches to a solecism in practice, it is a legislative body engaged in enlarging, altering, varying, or narrowing the sphere of their own powers.

I further observed, that, after hearing the subject discussed largely in this House, when it was first under consideration, and occasionally attending debates in the Senate, after patiently attending to the discussions on the different arrangements, adjustments, and modifications of the proposed amendment, which, as all are sensible, has proved a subject of no small difficulty; I could not but feel a degree of surprise to find that, in the course of such a lengthy discussion, not so much as one solitary argument should be advanced in support of the general principle of the resolution. It seemed to me as if the importance of the designating principle was, in the view of its advocates, one of those self-evident propositions which were in themselves so plain as to be incapable of any illustration by proofs. I am free to confess that I am not possessed of that intuitive knowledge which enables me to discover either the importance or correctness of the principle. Before I can vote for it I must have some sound, convincing argument in its favor.

It is true, some attempts of this kind have been made in an advanced stage of the discussion, first by a gentleman from Virginia, afterwards by a gentleman from Pennsylvania, and lastly by another gentleman from Tennessee. But, when I reflect upon the acknowledged talents of these gentlemen, I cannot but be affected with some degree of surprise that a measure of so much importance should be prosecuted with such a degree of zeal, while supported with such superficial ar-

guments. My design is merely to state my own reasons for voting against the resolution, and not to answer arguments in favor of it. I shall only briefly mention one, which appears to be principally relied on, viz: that it is the voice or will of the people. I know not of a more equivocal phrase in the English language than this—"the voice or will of the people." Gentlemen, I presume, will not assert that the voice of the multitude, but too frequently formed upon a sudden impulse, and ever fluctuating, which is one thing to-day and another to-morrow; changing many times by the breath of some popular demagogue who is disposed to make this voice a hobby-horse to serve a turn, can furnish any solid basis, either for legislation or the formation of a national compact. But it is said that this voice has been expressed by the Constitutional organ, by the Legislatures of the several States, from time to time. We are referred back to New Hampshire and South Carolina, to New York and Vermont, to federal and republican States, and to the same State when federal and when republican. If the distinction between federal and republican is meant merely to discriminate the two great political parties into which the United States have been principally divided, it is acknowledged some terms must be used for that purpose. Whether this is the most proper I pretend not to say. I presume the term is not meant to convey an idea that those who choose to call themselves republicans are so exclusively, and that all others are opposed to a republican government. Such a distinction is better adapted to a discussion in a party newspaper than to the floor of this House. I give full faith and credit to that gentleman when he says he is a republican, and that the State of Pennsylvania which he represents is a republican State. But will the gentleman assert that the State of Massachusetts is not equally republican, and that the representatives of that State upon this floor are not republicans as well as those from Pennsylvania? No, I trust he will not. I am willing to go hand in hand with that gentleman in favor of real practical republicanism. I hope to live and to die under a republican Government. I know of no State in this Union which is not a republican State, nor any period of the Union in which they were otherwise; and I know of no member upon this floor who is any other than a republican, nor of any prevailing party in the United States opposed to a republican Government. But to return from this digression to the subject of public opinion. This, as expressed by Legislative acts, has been various. What it is at the present moment I pretend not to say. In some States I believe important changes have taken, and are gradually taking place. To say positively what it is in Massachusetts, I perhaps am incompetent. Many probably have never viewed the question in a serious point of light. I am far from supposing a majority in the State to be decidedly in favor of the designating principle. But, sir, the public opinion, when constantly and uniformly expressed, ought to have its due weight. There are other reasons which ought more espe-

cially to govern the decisions of public bodies. The question ought to be, rather, what will operate for the best good of the people, than what will strike the present full tide of public opinion, which perhaps before another year may be greatly, if not almost totally changed. I can therefore see no reason arising from this why I should vote in favor of the resolution.

But as I have as yet heard no arguments sufficiently forcible to evince the propriety of adopting the resolution, so there are still many good reasons for its rejection, at least they appear so to me. Here I shall not again travel over the ground of the clashing interests of great and small States when elections shall happen to be finally determined in the House of Representatives. Nor shall I inquire whether three, five, or twenty, are the most proper numbers of candidates from which to select the President. I believe that an election in any form by the House of Representatives is an event which will happen but very seldom. The larger States, by acting in concert, can always carry an election by the Electors. It will be for their interest to do it, and we are not to suppose that it is an interest which will be often overlooked. Whatever objections may be against the designating principle on account of its militating against small States when the election happens to be determined in the House of Representatives, I have a still stronger one admitting the determination to be made by the Electors, which will be an event more common, and that is, that whenever we adopt the discriminating principle, we will throw an influence almost unbounded into the hands of the President of the United States, which will in the end make him President for life. That extensive patronage which is necessarily attached to the Presidency of the United States, aided by twenty-five thousand dollars per annum—a sum which, with our growing wealth and population, will probably increase—joined to his influence in the army, navy, and militia, can scarcely fail to render his re-election at all times so certain as to be nothing more than form. I have not the most distant apprehensions that these consequences would be immediate. Probably this generation may not realize them in their fullest extent. But if the progress is slow, I apprehend it will be sure, and that we will hereby forge Presidential chains for posterity, it may be to the latest generation. I see no security that we have that a President of the United States may not, at one time or another, be ambitious, artful, and intriguing. The love of power is congenial to mankind; this desire seems to be interwoven with human nature. It grows with our growth, and strengthens with our strength. Is it not natural to expect that a President of the United States, unless he is such a prodigy of virtue and disinterestedness, as is not at all times to be expected to fill that important office, having once tasted the sweets of power as well as the emoluments of office, would wish to perpetuate it? We cannot but suppose that a judicious distribution of the places of honor and profit which he has in his gift will have a great tendency to secure his

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re-election, and if a little extra expense should be sometimes necessary in the view of an ambitious and unprincipled man, the importance of the object to be obtained will be sufficient to justify the means. I wish to entertain as high an opinion of the integrity and incorruptibility of every member of the Government as any gentleman on this floor. I wish not only that all the individuals attached to any branch of our Government, but that all our citizens were forever to remain so entirely incorruptible as to be totally uninfluenced by indirect means and motives. But is such a degree of public and private virtue to be expected in the existing state of things? It was a maxim of a wise statesman, one who had a very extensive knowledge of human nature, especially on the dark side, I mean the noted Sir Robert Walpole, Prime Minister of Great Britain during the first part of the reign of George the Second—"that every man had his price." Though I cannot suppose this observation true in its fullest extent, yet I believe its opposite is equally untrue, that is, that no man has his price. Truth, I believe, lies between the extremes. The same statesman further observed, "that patriots were like mushrooms. He could cause fifty of them to spring up in a night, and leave the world to judge by what means." Such patriots or friends to prerogative may spring up in our country. They may, at some future time, spring up on the floor of this House. Why then will we, by the adoption of the discriminating principle, lay such a temptation before a President by putting it into his power, with so much greater facility, to prolong and perpetuate his authority. It appears to me that the wisdom of man could scarcely adopt a more effectual check to ambitious views of that kind than the present mode of election, by a double ballot for two persons without discrimination. So long as elections are managed in this way, an ambitious man, as he must forever remain uncertain of carrying an election, even by securing all the Electors, unless he can secure the House of Representatives too, will be under comparatively small temptations to use any unfair means to accomplish that end. But adopt the designating principle, and according to the present ratio of population, his election is secured by eighty-nine votes.

Besides, as the Vice President will not stand on such high ground in the method proposed, as he does in the present mode of a double ballot, so it is probable so great care will not be taken in the selection of a character to fill that office. Not standing on such high ground, the probability is that he will take the more humble station of the mere tool of the President; and truly, if the designating principle be once introduced into the Constitution, I see not what end a Vice President can answer, unless it be to take a pleasant journey to the seat of Government once a year, meet with and preside in the Senate for a few weeks, possibly not more than three or four in a session, receive five thousand dollars, and go home again. This to be sure is a very pretty *douceur*, and if he can, by the by, lend a hand to bring forward the

President's re-election, he may expect to be assisted in securing his own in return. Upon the whole, can it be thought necessary, in order to avoid a momentary inconvenience, such as was supposed to be experienced at the last Presidential election, and such as will rarely happen more than once in an age, if so often, to set aside an important principle in the Constitution, and thereby subject our country to inconveniences of a more serious nature?

If it be said that should these or any other serious inconveniences be experienced, the amendment may be dropped, or a new one introduced to guard against them. I reply in the words of the poet:

"*Facilis descensus Avernì sed revocare gradum,  
"Hic labor, hoc opus."*

The descent is easy, but to retrace the step on an up-hill road, this is the arduous task, this the painful labor. But as I view the proposed alteration as needless in every respect, and as injuring instead of amending the Constitution of the United States, so I view the resolution which has come from the Senate as still much more exceptionable than the one which originated in this House. I agree with gentlemen who urge the propriety of paying a suitable deference to the opinions of the Senate, but as no member of this House is obliged to give the sanction of his vote to a measure merely because it is agreeable to the Senate, I think this House ought to pay some respect to their own opinions. To pay an implicit deference to a resolution of the Senate, which I have reason to suppose the majority of this House, so far from considering as superior, view as much more objectionable than their own, merely from its being a supposed expression of the opinion of the Senate, is a degree of deference which I can hardly suppose due from one Legislative body to another.

The resolution in its present form tends to plunge us completely back into all the difficulties apprehended from the Constitution as it now stands, which its advocates proposed to avoid by the adoption of the discriminating principle, by rendering it possible that we may have an acting President of the United States, who never was contemplated; and never had so much as one vote for the office; a man who in all probability will not have that dignity, independence, and respectability of character, which we would naturally expect would be found in one chosen by a joint ballot, with some probability of his becoming the President; and indeed, whenever an election of President shall come into the House of Representatives, there is the greatest probability of the Vice President's succeeding to that office. Supposing that officer to be previously elected, either by the Electors or by the Senate, and must succeed of course to the Presidency in case of the non-election of a President, as he would have strong temptations; so the nature of the resolution is calculated to invite intrigue, in order to defeat the election of a President; and although I have purposely guarded against running a com-

parison between large and small States, yet permit me to remark, that seven Representatives will be more likely to be tampered with than seventy-four, and as according to the present apportionment they would represent an equal number of States, they, when voting by States, would have an equal weight in either effecting or defeating a Presidential election. Upon the whole, as the amendment now proposed shields us from no difficulty, and may, and probably will, expose us to evils innumerable, whatever may be its fate, I feel an entire satisfaction that I shall do my duty in voting against it.

MR. HOLLAND.—I am not surprised, after hearing the declarations of the honorable, I might add the venerable, member from Massachusetts, (Mr. TAGGART,) that the resolution on your table proposing an amendment to the Constitution as it respects the election of President and Vice President, will not obtain his support. The venerable gentleman states that he has taken an oath to support the Constitution, and therefore infers that he is under sacred obligations not to admit the alteration or amendment, as it would violate his oath. If the venerable member had read a certain provision in the Constitution, he would have there found, that in cases of amendment, he would be completely absolved from the obligations of his oath.

The venerable member has also said that the reasons offered so far as respects the will of the people in favor of this amendment is entitled to little weight. That the will of the people is unstable, versatile, fluctuating, and not to be relied on. Sir, I am one of those who have been early taught to respect the will of the people, and notwithstanding what has been said, I still retain an opinion that the public will is of binding obligation, and I hope I shall continue to regard it. The Constitution itself is predicated upon the will of the people, and in order to ascertain this will at all times, the framers were obliged to resort to elections and delegations of power by which agents were to be appointed to express and execute their will, whether acting in a Legislative or Executive capacity. But the delegation of power ought to be imposed only in cases where the will of the people cannot be otherwise known. Under these impressions I have not admired the plan adopted in the Constitution of electing those high officers by Electors. I should have preferred an immediate suffrage to this indirect mode of electing by Electors; but as the framers of the Constitution have thought proper to ascertain the public will through the medium of Electors, I am unwilling that they also should be under any unnecessary trammels whereby the will of their constituents should be impeded.

The gentleman that I have alluded to has acknowledged that on his first reading the Constitution he did not discover the policy of confining the Electors to what he calls a double vote, but is now willing to suppose that it was intended for wise and good purposes. I must confess, sir, that I, who have labored under the same difficulty, have never understood the policy that dictated this pro-

vision. It was doubtless intended for the best of purposes. I am far from implicating the motives, but it appears to be an effort to conceal in midnight silence and secrecy the intent of the Electors as to the person intended to be President, and the person intended to be Vice President. If this was the intention of this provision, let me ask gentlemen if it has been effected? A recurrence to all the elections for President and Vice President since the commencement of the Government will solve this question, and fully demonstrate that the person intended by the Electors to fill each office was well understood and known to all the Electors, and to all other persons that wished to know the secret has not been kept; from which it follows that the end has not nor never will answer the original design? And for what purpose shall we continue it any longer?

This mode takes more of the nature of a lottery than an election; the Electors are compelled to put two persons' names in a box, deprived of the liberty of exercising their rationality as to the application of either person to any specific office, and must leave the event to blind fate, chance, or what is worse, to intrigue to give him a President. Experience has shown that difficulties have attended this mode, and that it has not answered the original intention, and it is easy to foresee that it may be so practised upon as to destroy the first principle of our Government, that of the will of the majority in their election of the Chief Magistrate. I will not say that there is a faction now existing that would wish to defeat the will of the majority. But I may be permitted to say that it is a possible and a probable case that such a faction may exist, and on the existence of such faction, how easy would it be for them, under the existing provisions of the Constitution, to defeat the public will. I have before said that the intention of the majority is known to all; the Electors compose a part of this faction, and knowing that the majority to fulfil their object will decline to give all their votes to the person intended by them for the second office, this minor faction will accomplish their design by giving all their suffrages to the person intended to fill the second office, and by this means contravene and totally defeat the will of the majority; and all this may be right and proper in the view of many gentlemen, but to me who regard the public will, it is exceedingly improper—to prevent which, I am in favor of the amendment. Nor do I conceive the force of the objection of my worthy friend from Massachusetts, (Mr. EVERTS,) for whose opinions I entertain a high respect, to the amendment to our original resolution as made by the Senate, in reducing the number from which the President is to be chosen by the House of Representatives, when the choice devolves upon them, from five to three; and I hope, when he comes to reconsider his objections, that they will be found not to be solid, and that the amendment of the Senate is not an innovation of the principles of the Constitution, but more in unison with it than our original resolution. In the Constitution, when the election devolves upon the House of

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Representatives, the President and Vice President are to be taken from the five highest numbers on the list. In our original resolution the President alone was to be elected from the five highest numbers of those voted for as President, and the Vice President was to be elected from the two highest of those voted for as Vice President, augmenting the numbers from which those officers were to be chosen from five to seven. In the reduction of the Senate from five to three, from which the President is to be chosen, and the Vice President to be chosen from two other distinct numbers, makes precisely the same number out of which those officers are to be chosen as in the existing provisions of the Constitution.

In regard to the additional amendment providing in cases where the House of Representatives fails to elect a President, the whole objections are predicated upon a presumption that the House of Representatives and Senate have or will become so corrupt, that they will not regard the high duties attached to their stations.

Mr. Speaker, when the American Congress are thus contaminated, it will be an extreme case; against the evils of such a situation no remedy would avail you—all is gone. But this is only a possible case, and such a one that I will not suffer myself for a moment to apprehend, and therefore shall not attempt to guard against. And as I think that the resolution is calculated to avoid evils heretofore experienced in the election of our Chief Magistrate, and is consistent with the wish of the people, and will contribute to their happiness, it shall have my most cordial support.

Mr. THATCHER.—Mr. Speaker: My principal object in rising upon this occasion is, to examine some of those ideas which were suggested by gentlemen of the majority in the course of yesterday's debate. But, before I attempt that examination, I beg leave to call the attention of the House for a moment to a view of the subject, which has convinced my mind that the proposed amendment cannot be adopted without materially impairing the rights of individual States—without, in fact, destroying the very basis of the Confederacy.

Under the first confederation the States composing the Union were equal and independent. They voted by States. This Constitution was adopted by States, acting in their corporate capacity. They relinquished certain important rights, and the United States, by the Constitution, guaranteed to each State the enjoyment of other rights as an equivalent. The one was a consideration for the other. The States, for example, which held few or no slaves, consented to relinquish their right of equal representation in the House of Representatives; and that those States which possessed a vast number of slaves should be represented in Congress "according to their respective numbers, which shall be determined by adding to the whole number of free persons including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons." The number of Electors of President and Vice President is increased in the same proportion. Among other

things, in return, the Constitution establishes a mode of electing the President and Vice President which gives to each State a share in the election, and in determining the number of Electors it has express reference to States in their corporate capacity. By the article which it is proposed to alter, each State is entitled to "a number of Electors equal to the whole number of Senators and Representatives to which the State may be entitled in the Congress." It provides that two persons shall be voted for, without designating which is intended for President. It further provides that "if there shall be more than one" (person) "who have a majority, and have an equal number of votes, then the House of Representatives shall immediately choose, by ballot, one of them for President; and if no person have a majority, then from the five highest on the list, the said House shall in like manner choose the President. But in choosing the President the votes shall be taken by States, the representation from each State having one vote," &c. By this important article of the Constitution a degree of influence in the choice of President and Vice President is in fact guaranteed to each State, and the large States consented that the small States should have a greater share of votes in the choice than they would have been entitled to by their population. It has been so clearly shown, indeed it is so evident, that the Constitutional mode of election is calculated to guard the rights and interests of each State, but most of all the small States, that I forbear to enlarge upon this point. It is certain that the larger States would not have guaranteed to the small, rights so important, rights which abridged their own power materially, unless they had received an equivalent. We cannot determine, with certainty, that one of these rights was solely a consideration for another, but it is sufficient for this argument to know that the rights guaranteed were a consideration for those relinquished. It follows, that although we may modify the forms of the Constitution, in such a manner as will operate equally upon all the States, we cannot, under the article providing for amendments, ingraft new principles into the Constitution which will destroy the rights of individual States, without the consent of those States. There are certain rights inherent in States, as well as in individuals, of which they can never be divested without an express consent. Suppose two-thirds of Congress and the Legislatures of three-fourths of the several States should adopt a resolution which in direct terms should declare that in future other States should give no votes, or should have no share in the election of President and Vice President, would any one pretend that they were authorized to do this under the article providing for amendments of the Constitution? I consider it impossible to adopt a resolution which will impair the rights of sovereign States, which in fact will secure to the few States the power of choosing the President and Vice President at pleasure, to the total exclusion of all the other States, (and it has been clearly shown that with the present population five States may choose the President and Vice President, to the exclusion

of the other twelve,) without making the Constitution a *nudum pactum*; without destroying the very basis of the Confederacy. I look forward, sir, with fearful apprehension to the consequences, should this resolution be adopted. It will create the greatest dissatisfaction in the States injured by the alteration. It will furnish arguments to the enemies of this Union, which may effect its destruction.

An honorable gentleman from Tennessee (Mr. CAMPBELL) has founded his argument principally upon the position that the proposed amendment will carry into effect the public will; that it will prevent a contingency, which, under the present mode of election may occur, viz: the person intended by a majority of the Electors for President may be supplanted by the person intended by them for Vice President, and will fill the second office in the Government. This argument has also been urged by other gentlemen.

It is scarcely within the compass of possibility that, with the experience already had, an equal number of votes, and a majority should be given to two candidates for the Presidency. But it is demonstrable that whenever the right of choosing a President shall, under this amendment, devolve upon the House of Representatives, the danger that the person intended by the Electors for President will be excluded, not only from the Presidency, but also from the Vice Presidency, will be increased in a tenfold ratio. For, under this amendment, as adopted by the Senate, the House of Representatives may choose the President not only from five candidates, as under the present mode, but from among the candidates who may have either of the three highest numbers. The number of candidates, therefore, is almost unlimited. Every State candidate, every ambitious man who can secure a few votes, will offer himself for the office, and knowing that his only chance of success will be in the House of Representatives, it will be the object of all his supporters to prevent a choice by the Electors. The Vice President will be impelled by the most powerful inducements to prevent a choice, because by this amendment, "if the House of Representatives shall not choose a President whenever the 'right of choice shall devolve upon them, before the fourth day of March then next following, then the Vice President shall act as President, as in the case of the death or other Constitutional disability of the President.'" If the Vice President shall be elected by the Senate, the influence of the Senators may be added, to prevent a choice by the House, for they will naturally prefer that the man of their own choice should act as President. Thus, to the clashing interests of States, and of numerous candidates, may be added the influence of the Vice President and of the Senate, all tending to prevent a majority of States from uniting in one candidate. Under the present mode, if, by possibility, the choice should devolve upon the House of Representatives, the responsibility for all the evils of an interregnum must operate as the most powerful inducement to make an election; but, under this amendment, the hor-

rors of anarchy will not be dreaded, because in case of no choice the Government will be administered by the Vice President. It is fairly to be calculated that no election will be made by the House of Representatives. What is the consequence? A man who, from the nature of the choice, will probably be unqualified for the office, (as has been very clearly shown by my friend from Connecticut,) a man who had not one vote for President, succeeds, in fact, to that office. Thus the choice may be virtually transferred from the popular to the federative branch of the Government.

The gentleman from Tennessee tells us that this argument, drawn from the omission of the House to elect a President, implies corruption. This cannot be admitted, for men will naturally disagree in their opinions of candidates, and may very honestly adhere to the dictates of their judgments and consciences. But, sir, if it did imply corruption, it would not destroy the force of the argument. With the growth and opulence of our country, we must expect corruption; with the progress of our Government we must calculate upon intrigue.

To prevent the difficulties and dangers of a contested election in the House of Representatives, we hold out by this amendment to the large States the strongest inducements, we almost compel them, by the principles of self-interest, so to combine that the right of choice shall not devolve upon the House of Representatives. As a few States may so combine as to secure to themselves the election of President and Vice President, to the total exclusion of the other States, the greatest evils are generally to be apprehended from such exclusive combinations.

What, let me ask, sir, are the evils, the great, the impending evils, which will induce us to brave all the dangers of this hazardous experiment? The worst that can be apprehended from the present mode of choice is, that two of the first citizens in the United States, each having a majority of votes—voted for by the same Electors—if it should happen that they have an equal number of votes, the one preferred by the majority of Electors for President may chance to fill the second office in the Government, while the candidate intended by a majority of the Electors for the second office, may, by the votes of a majority of States, be chosen President.

The gentleman from Tennessee conceives that the minority can have no share in the election but by counteracting the will of the majority. Let it be remembered, sir, that it requires a majority of the Electors to make a choice. All that is left to the minority, under the present mode of election, when they have any share in the choice, is, to vote for one of the candidates offered by the majority. Is there to be a line of demarkation drawn between the parties by the Constitution itself, which will render the Chief Magistrate of the Union the mere instrument of a party? Is this calculated to secure the equal rights of the minority?

Mr. Speaker, several gentlemen in the majority

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have told us that the people call for this "amendment." My colleague (Mr. TAGGART) has been accused of speaking disrespectfully of the people. I understood him simply to say, that public opinion is mutable, and that the opinion of the people respecting this "amendment" has not been ascertained. How, sir, do gentlemen know the opinion of the "people" upon this question? By what evidence does it appear? It is said, that some of the State Legislatures have expressed a wish in favor of the "amendment." I know that two or three Legislatures, at different times, have passed a vote in favor of the designating principle. But, sir, no State Legislature has ever expressed approbation of the various other alterations in this resolution.

If the State Legislatures had expressed their approbation of this resolution, will gentlemen say that it ought to be obligatory upon the members of this House? We certainly are under the strongest obligations to give an independent vote upon the question, controlled only by the dictates of our own consciences. The Constitution has, in this instance, made each House of Congress and the State Legislatures a check upon each other; else, why are two-thirds of both Houses of Congress, and the Legislatures of three-fourths of the several States, required by the Constitution to concur in an amendment? If the opposite doctrine be correct, it would have been better to have decided questions respecting Constitutional amendments by the State Legislatures alone, than to have assigned to Congress a part in such a political farce.

In the course of this debate, various and repeated allusions have been made to party distinctions. We have, I believe, for the first time in this House heard the terms federal and republican applied to members of this House, and contradistinguished to each other. I have long seen these distinctions in newspaper publications, but I feel great regret that they should be introduced here, more particularly upon a question which demands of us to divest ourselves of all partial considerations, and to investigate this subject with candor and with coolness. What can gentlemen intend to effect by this denunciation? Is it intended to cast a reproach upon the name of federalist? Do they recollect whence was derived the honorable distinction of federalist? Do they not know that it is derived from an early and warm attachment to the Federal Constitution? If gentlemen claim the title of republicans, let them not claim it exclusively. Let them remember that we are all bound by oath to support the same Federal Republican Constitution.

Mr. Speaker, my mind is deeply impressed with a sense of the vast importance of rejecting this resolution. We are not discussing an ordinary, a party, or a local question, but it is proposed to adopt a material change in a fundamental principle of the national compact; an alteration which will affect the whole Union, which will influence the condition of millions long after the present distinctions of party shall have passed away, and we shall have passed away with them. While

we endeavor to render the present principle of the Constitution as operative and beneficial as possible, let us beware lest, under the plausible pretext of "amendment," we introduce principles destructive of the compact itself. On former occasions, extracts have been read from the speeches and from the writings of eminent statesmen. Permit me to quote a few sentences from an authority which once had great influence in this House. I trust it will now have an effect:

"Towards the preservation of your Government and the permanency of your present happy state, it is requisite not only that you steadily discountenance irregular oppositions to its acknowledged authority, but also that you resist with care the spirit of innovation upon its principles, however specious the pretext. One method of assault may be to effect, in the forms of the Constitution, alterations which will impair the energy of the system, and thus to undermine what cannot be directly overthrown. In all the changes to which you may be invited, remember that time and habit are, at least, as necessary to fix the true character of Government, as of other human institutions; that experience is the surest standard by which to test the real tendency of the existing Constitution of a country; that facility in changes upon the credit of mere hypothesis and opinion exposes to perpetual change, from the endless variety of hypothesis and opinion."

These sentiments are from the Farewell Address of that most illustrious statesman and patriot who presided in the Convention which formed this Constitution.

Mr. Speaker, I have been greatly gratified by the various motions which have been made, some of them by gentlemen of the majority, to recommend this resolution for the purpose of amendment. It is evident that some of the expressions are so extremely ambiguous and obscure, as to admit a great variety of construction. Such a variety of constructions have, indeed, been given in this House to some of the most important clauses, and so just have been the criticisms upon the phraseology of this resolution, that the necessity of amendment must be obvious to the friends of the resolution. It certainly cannot be necessary to adopt it precisely as it stands. If it must be sent to the State Legislatures, I hope we shall so far respect the reputation of the House as at least to make the resolution intelligible.

Some gentlemen wish so to amend this resolution as to make it conform to that which passed this House, and of which gentlemen were, at that time, so tenacious.

I sincerely hope that two-thirds of this House will never adopt the various alterations of the Constitution, contained in this resolution. If disappointed here, the State Legislatures will, I trust, perceive, that the important right guaranteed to them by this Constitution, once relinquished, can never be regained; that, by defacing the fairest feature of the Constitution, they sacrifice the rights of other States, they hazard the peace, the existence of the Union.

Mr. THOMAS.—A number of gentlemen opposed to this amendment, and particularly the gentleman last up from Massachusetts (Mr. THATCHER,)



appear to lay great stress on exceptions to the phraseology of the resolution. In the first paragraph, they contend that it is absurd, because it reads: "which when ratified by three-fourths of the Legislatures of the several States." I agree with the gentlemen that it would have read better, to my mind, had it said: "which when ratified by the Legislatures of three-fourths of the said States;" and it would have been nigher the phrase made use of in the Constitution. But, as on all occasions like this, when there are precedents, as to form, we generally adopt them; the Senate appear to have done it in this instance. I wish gentlemen to examine a resolution of the first Congress, under this Constitution, proposing a number of amendments to the State Legislatures. They will find, in that resolution, it is thus expressed: "which when ratified by three-fourths of the Legislatures of the said States." Now, I ask, what is the difference in the phraseology of these two resolutions? One says: "when ratified by three-fourths of the Legislatures of the several States." The other, which I have just read, says: "when ratified by three-fourths of the Legislatures of the said States." For my part, I can see no difference between these two; besides, in my opinion, it is altogether unimportant whether anything is said in the resolution about its being ratified by three-fourths, all, or any of the State Legislatures. I believe it sufficient that the bare proposition go out from Congress, and when it has received the ratification of the Legislatures of three-fourths of the States, the Constitution itself, which is paramount to anything we can say on the subject, declares it to be a part of that instrument. And I ask the gentleman from Massachusetts, or any other gentleman on this floor, whether this is not correct? Whether what is said on the resolution, or what we could say, in relation to its ratification by the State Legislatures, can possibly affect its validity? It cannot; therefore, all that has been said about that part goes for nothing.

With respect to the criticism of gentlemen as to the wording of the second paragraph, I wish they would read the exceptionable sentence, and then compare that with the one on the same subject in the Constitution. [Here Mr. T. read the two, and then said:] To my mind it appears plain, and properly enough expressed; and I do consider that the objections to the phraseology of that part are equally preposterous with the other.

Mr. Speaker, (said Mr. T.,) I am in favor of the resolution as it now stands, and shall give it my decided support. I, however, acknowledge that I should like it better myself, without the provision made by the Senate, that the Vice President should act as President, in case no election should be made by the House of Representatives previous to the fourth of March, when the choice devolves on them; and as several gentlemen have expressed a desire that a trial should be made to effect this alteration. I wish the Speaker to inform me whether if the House should amend the resolution, and the Senate should not concur in the amendment, when it comes down again to this

House, a majority cannot rescind the amendment, or whether it will require two-thirds? Because, although I have heretofore voted against a recommitment, if the Speaker is of the opinion that a majority can rescind, I am willing to make the trial, and shall, in that case, move to recommit the resolution to a Committee of the whole House for that purpose.

The SPEAKER said, he considered it improper to give an opinion on a question of order relating to a subject not immediately before the House. He said, on all incidental questions, he considered a majority sufficient.

Mr. R. GRISWOLD.—I feel no disposition to protract the debate to any considerable length. Nor can I flatter myself that any remarks which I shall make will convince a single member of the House, whose opinions have been formed in favor of the resolution, of its pernicious tendency. But upon a question of so much importance, I must be permitted to state, in a concise manner, some of those considerations which will induce me to give my decided negative to the measure.

The election of a President is a transaction of vast importance to the United States. In the hands of this officer is deposited the Executive power of the Government; the Constitution having expressly declared that "the Executive power shall be vested in a President of the United States of America." On the execution of this power depends, in a great measure, the character and prosperity of the country. The President is entrusted with the execution of the laws. He appoints, with the consent of the Senate, the Judicial and Executive officers. He forms, and with the advice of the Senate concludes, treaties, and in his hands is virtually lodged the peace and safety of the country. Even the right of declaring war, although nominally confided to the Legislature, must be substantially controlled by the acts of the Executive; because it must generally happen that the necessity of war will depend on the management of our foreign relations by the President, and the power of terminating a war by treaty rests with him. In a period of war the President is the Executive to conduct it, and in a time of peace he is the guardian of our neutral rights. A power so important and extensive must necessarily carry along with it vast patronage and influence; and a President may at all times become emphatically a blessing or a scourge to the community.

From this hasty sketch may be perceived the deep interest which every State has in the Presidential election.

The election of the first magistrate of a nation has always been considered the most difficult part of the science of government. The authority which the office necessarily confers, the respect which it creates, and the patronage which it gives, must render it the great object of ambition to aspiring men. The Journal of the General Convention shows that this subject created more difficulty than any other which fell under the deliberations of that respectable body. To organize the election in such a manner as to guard against popular cabals and corruption on the one hand,

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and to secure a proper dependance on the people on the other; to prevent improper combinations of States or of individuals, and at the same time to give each State its due weight and influence in the election, was no easy task. They formed, however, the great objects which engaged the attention of the Convention; and after every project had received a deliberate consideration, that body agreed upon the plan under which we have successfully practised for fourteen years. It is now proposed to introduce an essential and radical change in this plan, and we are called upon to decide whether we will recommend the change to the States. Under these circumstances, it cannot be improper to caution gentlemen against precipitancy, and to request them to examine critically the nature of our Government, and to be careful that they do not, under the pretext of amendment and reform, violate one of the first and most important principles of the Union.

The Government of the United States is not a consolidated Government; it is strictly federal, and its friends are of course federalists. It is true, that this branch of the Legislature (the House of Representatives) bears many marks of a consolidation. We are the Representatives of the people of the respective States, and in this respect the principle of consolidation may be considered as existing in this House. But in the Senate, nothing but the federative principle is seen. In that body, each State is not only represented as a sovereign State, but the representation is equal; nor can the size, population, or wealth of a State, increase or diminish its rights or its vote on that floor. In the election of a President, the federative principle is likewise discernable. That officer is elected by Electors, chosen in such manner as the State Legislatures shall direct, and to consist of a number of Electors equal to the Senators and Representatives of each State. By this arrangement, the choice of President is controlled by the States; and although the large States have a greater influence in the election than the small States, yet this influence is not entirely regulated by population. The votes to which each State is entitled for its Senators increases the influence of the small States; and it is in consequence of this, that the State of Rhode Island now gives four votes for President, when, upon the principle of consolidation, she would be entitled to no more than two. The votes of Delaware, on the same principle, would be reduced from three to one.

There is not a feature of our Government more strongly marked than this of its Confederation, nor any to which the people are more strongly attached. And it would be impossible to submit any proposition which could create more alarm than a direct project of consolidating the States into one Government. The States always have, and probably will continue, to preserve with jealousy their sovereignty and independence. The present Government, it is well known, grew out of the old Confederation; in which form the States were, in every respect, equal—each State having one vote in the National Congress. The innovation which was made on the pure federative principle by the

present Constitution was the result of necessity and compromise. But still, as has been already observed, the federative principle is distinctly preserved, and remains the great and leading feature of the Constitution.

It has been often repeated, that the Constitution of the United States was the result of compromise between the large and the small States. This is undoubtedly true, and the basis of this compromise ought to be considered as sacred—never to be shaken whilst the Constitution endures. After mutual concessions by the large and small States, (for both may be considered as conceding something,) the principles by which the influence of each State is balanced in the Legislative and Executive departments may be fairly considered as constituting the basis of this compromise. It results from this, that every attempt to diminish the influence of large States on the one hand, or to weaken that of the small States on the other, is sapping the foundation of our Confederacy. The power to amend the Constitution was not given to authorize the change of any radical principle in which particular States might be interested. This power, it is well known, was given for very different purposes.

I have made these general observations, because it has appeared to me that every proposal to amend the Constitution ought to be first tested by the nature and scope of the Constitution itself; and if it shall be found to interfere with the rights of States, or with any fundamental principle of the compact, it ought to be rejected, although it may promise some temporary advantages in the eyes of speculative men. It cannot be too often repeated, that in considering projects for changing the Constitution, we ought to consider what the Constitution is, and not what it ought to be, in the opinion of individuals. Our Government is in fact a Confederacy, and as such we are bound to respect the rights of each party to the compact.

In respect to the resolution under consideration, the first principle I assume is, that it must necessarily diminish the influence of small States in the election of a Chief Magistrate, and, of course, that it is a direct violation of that spirit of compromise which produced the Constitution.

The effect of the proposed amendment upon the influence of small States, in the Presidential election, has scarcely been denied on the floor of the House. Indeed, after the very able and lucid exposition of this part of the subject, by the gentleman from South Carolina, (Mr. HUGER,) some days ago, it appears to be generally understood and admitted that the power of the small States, in this great point of electing a President, must be diminished. Under such circumstances, it can scarcely be necessary to repeat arguments or to support a position which has been so clearly sustained in the debate. But as this is a point of great magnitude, and (if well understood) must be felt in every small State, I will take the liberty of adverting again to some of the proofs on which the assertion rests.

If the proposed amendment is adopted, it will remain in the power of five large States to com-

bine, and with perfect certainty to give a President and Vice President to the Union. As the electoral votes were distributed under the last census, this power may be exercised by Virginia, North Carolina, Pennsylvania, New York, and Massachusetts. To say that no such combination can be formed, is speaking without a knowledge of the human character. And although a combination of the particular States which I have named cannot at this time be formed, yet it is certain that a combination of large States, equally effectual, may at this moment be produced. Gentlemen deceive themselves, if they imagine that the large States can have no interest or inducement to form these combinations. We ought not to forget that our Government is a confederacy of States; that the office of President is vastly important, and that the State which can possess the Executive power in the person of one of its own citizens, is necessarily elevated above the other members of the Confederacy. Nor can we forget our own feelings as men. There is not a member of this House who does not feel particularly attached to the State to which he belongs—whose pride would not be gratified by seeing the State which he represents giving a President to the Union, and a tone to the Government—who does not believe that the interests of those with whom he is particularly connected would on many occasions be better, and on every occasion be as well secured under the administration of a President from his own State as from any other quarter. Whenever communities or individuals are stimulated by the powerful inducements of interest or ambition to form combinations, they will necessarily be created. And although at this time there is no State which can openly claim the exclusive right of giving a President to the Union, yet this right may be enjoyed in rotation by a few large States, in defiance of any combination which can be formed against them. We have already seen, upon one occasion, some evidence of a combination crumbling to pieces by the jealousies which the present peculiar mode of election has excited.

It might appear to a cursory observer that the same combinations may be formed under the existing mode of election, it being equally in the power of the large States to give a President and Vice President to the Union. But a critical attention to the subject will satisfy gentlemen that the present mode of election must necessarily create so much jealousy among the large States as to render all lasting combinations impracticable. As the election is now regulated, each Elector must give his vote for two candidates for the office of President, one of whom must be the citizen of a State to which the Elector does not belong. Under such circumstances, if the large States should combine for the purpose of securing to themselves the two offices, they must give to each of their candidates nearly an equal number of votes; in which case it will be left in the power of a small State to decide the election in favor of the least objectionable candidate. The effect of which must often be to defeat the plan

of rotation agreed upon by the large States, and to create suspicions that the votes of a small State thus given to the successful candidate have been obtained by a secret combination with the State to which the candidate belongs, or with the candidate himself. In the same manner, the views of any particular State may be forever defeated by the small States; and such views will be defeated if any one of the States, from its local situation, its great extent, and its population, should arrogate to itself the right of giving a President. Gentlemen must be sensible that no combination formed under such circumstances can be lasting. Political combinations can only be lasting where the object for which they are formed is obtained with certainty, and where no jealousies are excited. But where the object is defeated, where jealousies arise, and more especially where the views of the most powerful and ambitious member of the combination are forever defeated, the combination can never endure.

The advantages resulting to the small States from the present mode of election is not confined to the power of defeating the combination of large States. It is certainly important to possess the power of selecting the least objectionable of two candidates. Although neither candidate may be the particular object of our choice, there may still exist, in our opinion, a wide difference in their respective qualifications for office. Whenever a candidate has been preferred to his rival, by the suffrages of his political opponents, he will entertain those sentiments towards them which every liberal mind must feel towards those who have granted a favor. He will be conscious that he is indebted to them for office. He will feel bound to treat them with respect, and promote their interests. Such are the sentiments which must be entertained by every man under similar circumstances—such are the sentiments which the presiding officer of the House must always feel when promoted to the chair, in consequence of the division of his own party by his political opponents. This influence of the small States in the Presidential election will promote the harmony of the Union. The power of the small States, although circumscribed, may, under certain circumstances, become effectual. And as public bodies and individuals, in all political transactions, are caressed and respected in proportion to their power, the small States will be courted and respected by the large States, and the mutual dependence which they feel on each other must soften their passions, and in a great measure diminish those State animosities which endanger our domestic tranquility. And will gentlemen tell me that these advantages are of no importance? In my opinion they are advantages which not only tend to harmonize the Union, but they form the strongest barrier for the small States in one of the most important transactions of the nation, against the overwhelming power of the large States. It is this peculiar mode of election which can render the votes of small States truly efficient in the choice of a President. Strip the Constitution of this feature—introduce the discriminating prin-

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ciple, and you transfer the whole power to the large States. Their combinations cannot be defeated; and whilst they give you a President and Vice President with perfect certainty, and in perpetual rotation, they will laugh at our interference, and deride our impotency.

Permit me, on this point, to appeal to those gentlemen who represent the large States for the correctness of the opinions which I have expressed, and to ask them whether it is consistent with their characters, as guardians of the Constitution, to avail themselves of the moment of party violence to pursue this serious and radical change, and to aggrandize the States which they represent, at the expense of those with whom they are connected? To those gentlemen who represent small States, it would not be necessary, under any other circumstances, to make an appeal. The interests of the States to which they belong would not be forgotten. But this is a moment when every object appears to be forgotten but the temporary views of party; and I must be permitted to remind those gentlemen, that if they suffer themselves to be carried along by the torrent, and consent to abandon the interests of the States to which they belong, their votes can never be recalled. If they agree to the resolution, and the amendment should be grafted upon the Constitution, the rights thus sacrificed are lost forever. For myself, I should be as well satisfied to see an amendment which should, in express terms, confine the choice of President to certain large States, as to see the resolution on your table. The effect must be precisely the same. But as it is not my intention to consume much of the time of the House, I will waive all further remarks upon this part of the subject.

There is another view of this subject, which furnishes to my mind a conclusive argument against the proposed amendment. In all governments which have hitherto existed, in which the elective principle has extended to the Executive Magistrate, it has been impossible, for any length of time, to guard against corruption in the elections. The danger is not an imaginary one, in this country. The office of President is at this time the great object of ambition, and as the wealth and population of this country increases, the powers and patronage of the President must necessarily be extended. We cannot expect to escape the fate of other Republics. Candidates for the office of President will arise, who, under the assumed garb of patriotism and disinterested benevolence, will disguise the most unprincipled ambition. Corruption will be practised by such candidates, whenever it can be done with success.

It is therefore an object of the first importance, to regulate the election in such a manner as to remove, as far as possible, both the temptation and the means of corruption. If gentlemen will attend to the proposed amendment with reference to this point, they will find that the means and the temptation to corruption must be increased. As the Constitution now stands, the man who aspires to the office of President, can at best but run the race on equal terms with some individual of his

own party. In order to succeed, he must not only obtain for himself and his associate, a greater number of votes than his own political opponents, but he must obtain more votes than the associate himself. The chances of success are by those means rendered more remote, and however desirable the office may be, the temptation to enter the list, or to make individual exertions, are diminished. The means of corruption must generally be found in the offices at the disposal of the President; and these, it is well known, constitute a fund of great extent, and where the election is brought to such a point, as to rest with two candidates only, this fund may be used with great success. One office may be promised to this Elector as the price of his vote, whilst other offices are promised to other Electors on the same corrupt consideration, and the aspiring candidate may thus mount to the first office in the Government. But so long as your elections remain on this present footing, the means of corruption are diminished; because the aspiring candidate can only promise this corrupt distribution of offices upon eventually succeeding to the Presidency, and as his chances of success are diminished by the mode of election, his promises are of less value to the Elector, and of course will be less frequently made, and more generally rejected.

So far as I can understand the objections which are made to the present mode of election, they are brought within a narrow compass. They consist principally of a general and loose assertion, that it is reasonable and proper Electors should on all occasions designate the man they intend for a particular office; and secondly, that the experience of the last Presidential election shows the necessity of a designation in this particular case.

If it was true, that one man only could be found within the United States qualified to fill the office of President, there would be force in the first objection. But such is not the fact. There are men to be found in every State, eminently qualified for this important trust. Where then can be the necessity of confining the votes of Electors to a single candidate? Is it an hardship upon an Elector to be compelled to vote for two candidates, when two may so easily be found? And are there not advantages arising from this mode, of a serious and decisive nature? I have already mentioned the interest which the small States have in the arrangement, and I have alluded to the door of corruption which the change will open, and it is not necessary at this time to repeat those opinions. But I must be permitted to ask, is it not of some importance, that the most eminent men should be selected for the offices of President and Vice President? The President is elected for four years; he may die within that period—he may be removed from office, or he may become disqualified to execute its duties; in either of these events the Vice President succeeds to the power. Under the existing arrangement you will secure, as far as human prudence can accomplish it, the most eminent men for these two offices. Each candidate must be voted for as President, and if the Electors fairly execute the Constitution, they will give their votes for those men who are the best qualified to ad-

minister the Government. Thus, under every probable event, you will find one of the most eminent of your citizens at the head of your Government.

But if the amendment prevails the case must be greatly changed. The man voted for as Vice President will be selected without any decisive view to his qualifications to administer the Government. The office will generally be carried into the market to be exchanged for the votes of some large States for President. And the only criterion which will be regarded as a qualification for the office of Vice President, will be, the temporary influence of the candidate over the Electors of his State. It is in this manner you must expect to obtain a man to fill the second office in the Government, and who must succeed to the power of President, upon every vacancy. The momentary views of party may perhaps be promoted by such arrangements, but the permanent interests of the country are sacrificed.

Far from believing that experience has shown the impropriety of the existing mode of election, I am convinced, so far as it has gone, that it has evinced the wisdom of the arrangement. The general success of the Government is well understood, and exhibits a strong proof in favor of the Constitution, as it now stands. But gentlemen speak of the late election of President by the House of Representatives, and by the manner in which that transaction is described, I am persuaded the circumstances which attended it are not understood. I was a member of the House of Representatives at the time, and I take this occasion to declare that no transaction ever was more grossly misrepresented, than that has been, in every part of this country. When the election commenced in the House of Representatives, every gentleman knew that it must terminate in the choice of one or the other of the two candidates, and the only question was, who could, or would think proper, to persist the longest in support of the candidate he had first chosen. The election was conducted with perfect mildness and good humor; not an expression or look of severity escaped from any one; and when the election was closed, the House proceeded to the ordinary business of the session, as though nothing of particular importance had taken place. The candidates who on that occasion were brought into the House, were both selected by the same political party. It could not be of much importance to that party which should be chosen, nor could it be supposed to be of vast importance to their opponents. The event therefore was certain that an election would be made, and there did not exist the smallest hazard that the Government would be left without a President. Had the election terminated in favor of either candidate, those who brought them into the House must have been satisfied. If the controversy had arisen between two candidates of different political parties, the contest might have been a serious one, but that is a state of things for which the present amendment makes no provision. The public agitation, which it is said by some gentlemen existed at that time, was not called for by the occasion, and must have been harmless. The

people of this country are not at this time, nor were they then disposed to rebel against their Constitution and Government. It was not only the right but the duty of the House of Representatives, to select from the two candidates the man who in their opinion was best qualified to execute the office of President. And if the choice had fallen on the gentleman who now presides in the Senate, "all United America," to use the favorite expression of the gentleman from Tennessee, (Mr. G. W. CAMPBELL,) would have acquiesced in the decision, and submitted without rebellion or insurrection to the Administration.

But there is one important lesson which the experience of that election has taught the people of the United States—it is this, that it becomes the great and solemn duty of Electors, upon all occasions, to give their votes for two men who shall be best qualified for the office of President. The Electors do not, they cannot know which of their own candidates will succeed. They are therefore called upon by every sacred principle to select the most eminent of their fellow-citizens. They will be stimulated on all future occasions, by the experience of the last election, to do, what I trust they have heretofore done, to give their votes for two men, in either of whom they are willing to confide the Executive power of the Government. What then can induce us to change the form of our elections? Some gentlemen have said a great deal about the voice of the people, and declared that the people demand the alteration. This is a language too frequently used within these walls. The purposes for which it is used, I leave to others to explain; but it must be perfectly understood that the clamors of designing men are too often mistaken for the voice of the people. The people are rarely disposed to seek for changes whilst they feel and enjoy the blessings of their old establishments. Be this as it may, we have been sent into this House to obey no voice but that of our own consciences and judgments.

If gentlemen would, upon this occasion, divest themselves of those party considerations, which are so apt to swallow up deliberation, I cannot persuade myself that they would agree to the resolution. When they view the deep wound which it inflicts on the interests of small States—when they see the wide door which it opens to corruption—the certain and pernicious effect which it must produce on the Electors of a Vice President, and the destruction of that balance of power among the States, which was settled by the Constitution, they will at least hesitate, before they give a final vote for the passage of the resolution. The security given by the Constitution to the interests and influence of the different States, in our great national concerns, forms the only basis on which the Government can rest. Disturb those interests, and the Government must tremble to its foundation. And although the effect may not be immediately perceived, yet the day will come when it will be both seen and felt, and the large States, who have now seized a moment of passion to grasp the power, may regret the hour when they violated the compact which binds us together

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Mr. DENNIS.—Encouraged by the indulgent attention with which the remarks of other gentlemen have been received, I submit to the consideration of the House some observations on the resolution before us. Not having been present when the resolution, which originated in this House, containing alone the discriminating principle, was under consideration, and which it is presumed was fully discussed, because that point was exclusively considered, and deprived of the elaborate and learned argument of the Senate in relation to that principle, I should not have offered myself to the consideration of this House, if there had not been incorporated into the resolution other principles which have been but little investigated, and which, though called subordinate principles, I conceive to be as important as the principle of designation itself.

The friends of the resolution, aware of the influence of names, have chosen to call the two last, secondary principles; have omitted to discuss them themselves, and have presumed that others would regard them as subordinate principles, because they have chosen so to denominate them. It may, however, be shown, that these principles, acknowledged on all hands to be obnoxious, even to many of those who favor what I will term the pre-eminent principle, and which they are admonished to surrender to obtain that object, are far from being so innocent and unimportant as is represented; and that the last one goes essentially to impair if not entirely to defeat the favorite principle of designation itself.

As far as I have been able to develop the leading argument in favor of a discrimination, it is, that by such distinction we shall insure the complete control of the public will, and that the man intended as the secondary, may never become the primary character. But, according to the last member of the resolution, instead of assuring to us that object, in every case where no one candidate shall have a majority of all the votes of the Electors, and where by any means or contrivance a choice in this House can be prevented, the person designated as Vice President becomes the President.

In considering the combined but warring principles of this resolution, we are not to consider their tendency simply in the present state of things, but look to a period when our States and our political parties shall have multiplied their numbers. Scarcely does the earth perform her annual revolution without adding to our existing numbers a sister State; and I will venture to predict that many years will not have passed away when this nation will be divided into three or four political parties. As your States and those parties augment their respective members, so will increase the difficulty of procuring a majority of electoral voices in favor of any individual. Admit that the designating principle may render it less probable that the election shall be brought into this House, as in the case of a tie, the case of a non-election by the electoral bodies, for the reasons before assigned, on account of no one candidate having a majority of votes, may frequently occur.

For, let it be remembered, that this case will be but little affected by the discriminating principle. When the election shall be brought into this House, the increase of States and of parties will in like manner, as in the electoral bodies, render it extremely difficult (even without the influence of fraud or corruption to prevent it,) to effect an union of a sufficient number of members voting by States, where there may be a number of candidates, to give any one of them a majority of the States. A non-election by this House then, by this resolution, is precisely equivalent to an election of the man to the Presidency who was intended as the Vice President; because, by the last member of the resolution, if no choice be made in the House by the fourth of March, then the Vice President, already chosen by the Senate, is to become the President. Thus it is, that by the magical operation of these conflicting principles, you do the very thing you mean to prevent, and elect the man intended as a secondary character to the Chief Executive Magistracy.

Again, sir, in order to secure the certainty of electing a man of the people, you throw the whole weight of the Senatorial branch and of the Vice President, who have nothing to do but to defeat an election here to make him President, into that scale which is opposed to the public will; and you hold out a temptation to the exercise of every species of contrivance which the mind of man, stimulated by a love of power and possessed of allurements to acquire it, may suggest and put into motion in this House, to preponderate the balance on the side of non-election; which non-election is tantamount to an election by the Senate of their President to be the President of the United States.

Nor will the weight of that body be realized alone when the election shall be brought here; but may be exerted in the first instance to multiply candidates, perplex and divide the electoral bodies, and prevent, in them, a majority in favor of any one candidate; so as to bring as many as practicable into this body, in order that they may again perplex and obstruct it.

Surely, Mr. Speaker, the Senate ought to have been satisfied, (determined as they have been to innovate on the Constitution in a point never contemplated by any but themselves,) to have provided that the election of their President, a secondary character, should vest him with the powers, emoluments, and patronage of the high office of President of this great nation; so long and no longer than an election should be made. This would have taken away that strong inducement to intrigue and corruption, which results from exhibiting to human frailty the important price of the Chief Magistracy of this country, for four succeeding years. I was about to move such a modification or extension of that principle in Committee of the Whole; but we were told, nay, the friends of the principle of designation were told, that all efforts at amendment, even for changing an obscure and unintelligible phraseology, differently construed by those who held this language too, would be vain and illusory. These intimations have since grown into fact, in the rejection of the resolution

this morning submitted by a gentleman from Pennsylvania (Mr. HOGG.) Yes, sir, we are told that although the discriminating principle is the only one to which the public attention has been invited, and the only one embraced in the resolution of this House, yet it must be adopted, because the other branch of the Legislature, not deigning to consider the resolution of this House, have incorporated into it a principle vesting in their own body a novel and important power; and that they will not adopt the one without the other.

But, Mr. Speaker, let me here in a particular manner address myself to those gentlemen who are favorable to the designating principle, and who acknowledge the other to be extremely obnoxious. Can you discharge your duty to your constituents, who have required the one and not the other, and reconcile it to your conscience to take the resolution as it stands? You are told the last is a subordinate principle and must be yielded to effectuate the main design. Is that a subordinate principle which transfers the choice in any contingency from this House to the Senate? Is that a minor principle which not only makes that transfer from the immediate representatives of the people, to a body much less responsible to the public, but changes the mode of voting by States to a vote *per capita*?

You are told the object of amending the Constitution is to conform the choice of the President to the will of the people. But is this object attained by holding out temptations to frustrate that will in the first place, and transferring the jurisdiction from the House of Representatives to the Senate in the second?

But you are told you must do so, otherwise the Senate will not agree to your principle of designation. Other gentlemen may be in possession of means of individual information to which I am a stranger, but sure I am, we do not possess that information as a body, which warrants the assertion. Have you ever asked them to recede, or signified your wishes on the subject? Has not every effort of the kind been rejected by this House? Shall it be said that whilst our rules indicate the propriety of this course in case of a difference between the two branches, in ordinary legislation, we will not make one attempt to expunge from the resolution principles which almost all of us declare to be repugnant to our wishes?

You are told that the people of the United States and the Legislatures of the States imperiously demand a change of the Constitution. In relation to the discriminating principle, let it be conceded; but, have the people or the States required you to transfer your own power to the Senate, and has the declamation respecting the will of the people any application to the two last principles of the resolution? No. I will venture to assert that this ingenious contrivance had its origin in the other branch of the Legislature.

We are told we have only the initiative in the business, and our acts are to undergo the revision of the State Legislatures; and, therefore, the less need for that caution and deliberation which might otherwise be requisite. It would be a very

poor excuse in a judge of an inferior court to say he was less sedulous to understand a legal question, and to decide correctly upon it, because his decision would be revised by a superior tribunal. We should not transfer into the hands of others that trust which is confided to ourselves. I will not say that there is not any individual in any State Legislature who is not possessed of as much knowledge as any individual here; but I will say, that it is not to be calculated that the Legislative body of any State possesses as much collective knowledge as does this House, of a subject affecting not only individuals but States differently situated in regard to geographical position, population, wealth, and interests. That the decision of this House will have its influence on the State Legislatures is not to be doubted, and therefore we should scrutinize the contrariant principles of the resolution, and go as far as practicable to remove its defects.

I have said, in the course of the discussion on some incidental questions, that to say I would in no case change the Constitution, would be using unconstitutional doctrines, because the instrument contains within it a principle of its amendment, and it may be necessary to conform it to new circumstances and contingencies as they emerge. But I have also said, and beg leave to repeat it, that to induce a change of it, the existing evil ought to be clearly demonstrated, and the aptitude of the remedy proposed to effectuate the object ought to be unequivocally established. The alteration of the Constitution of the United States is of a more delicate nature than to change that of a single State. In one case you have only to quiet the apprehensions and compose the disquietude of discordant individuals; in the other to disarm the jealousies and reconcile the interests of jarring States. To this distinction those gentlemen who have reposed the whole argument on the basis of the popular will, have not sufficiently attended.

A gentleman from Tennessee, (Mr. CAMPBELL,) and other gentlemen who have advocated the adoption of the resolution, have informed us that this Constitution was adopted by, and that the departments ought to be organized according to, the dictates of a majority of the people. Admit it to be so, and that the designating principle will produce the effect I have endeavored to show, the whole resolution will defeat it. But, I beg leave to enter my dissent to their theory of our Government. That the will of the majority in a republican Government, and in a single State, must and ought to prevail, I do not deny; but I wholly deny this to be the theory of the American Confederacy. The Constitution of the United States was not adopted by the people of the United States, but by the people of the several States as such, voting through the medium of their State Conventions; and, so far from its being adopted by the people of the United States as such, it is doubtful whether it was not adopted by a minority of the people, though ratified and confirmed by a majority of the adopting States. North Carolina and Rhode Island rejected it, and in Virginia, Pennsylvania, and New York, the minorities were



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powerful. The minority in Virginia and Pennsylvania alone were more than equal to counter-vail the majorities of five or six of the smaller States; so that, if the vote had been taken by the whole American people voting together, it is doubtful if it had ever been adopted.

When we view it in relation to the organization of the departments, they are equally mistaken. The House of Representatives, which partakes most of the popular or consolidated principle, is not chosen by the will of the people of the United States, but in different modes, by the people of the respective States. The Senate partakes in its mode of appointment exclusively of the federative principle, without regard to the number of individuals contained in the several States.

When we come to the organization of the Executive department, we find an intermixture of federative and popular or consolidated principles, combined and interwoven with so delicate a hand that it is impossible to strip it of the one without destroying the other. The Electors who choose the President are not chosen in a manner to ascertain the sense of the people of the United States, but are chosen in some States by the Legislatures, in others by the people voting in a general ticket, and smothering the voice of the minority; while, in others, the choice is made by the people voting in districts, and giving the proportional weight to the minority. The number of Electors likewise assigned to the different States depend on the combined number of the Senators and Representatives of each State in the Congress of the United States; so that a State having one Representative, has two votes on the federative principle, to one on the popular principle. The result of this analysis of the Constitution will satisfy gentlemen that State interests are materially affected by this amendment; and that the public will, always equivocal, is not the only thing to be considered in this particular. Indeed, sir, it proves to them that, instead of giving complete effect to the popular will, the choice of the Electors is made through the medium of so refined a process, and in so artificial a manner, that it may happen that a majority of the Electors may be chosen and the President elected by a minority of the people. I believe, sir, a President of the United States has been elected by a minority of the people of the United States.

We have been told that numerous amendments have been made to the Constitution, and it is therefore proved by experience that those State jealousies and other dangers, which are represented as likely to arise from this amendment, have no place except in the imagination of the opponents of the resolution. I think I shall not be considered as metaphysical, however, when I declare that, there occurs to my mind a material distinction between an amendment which goes merely to enlarge or abridge the Legislative power, or the power of any given department, and one which materially changes the manner in which one of the departments itself is organized.

All the amendments heretofore made are of the first description; operating merely on the popular,

and affecting in no wise the federative principle; there was no ground for local jealousy. But, in this case, for the first time, you are affecting the organization of the departments, and, of course, the federative principle; and the arguments used in this discussion have but too well demonstrated the State jealousies and inquietudes likely to result from every such amendment between the large and smaller States. Representing a State which occupies and is likely to maintain, for a long time to come, a middle position in the Union, I have not critically examined whether the resolution will operate for or against the one or the other; but I know that there are jealousies on this subject, and we ought to be cautious not to fan the flame. If there be individuals in this nation hostile to the Union, (and we have been admonished that such exist,) let us be cautious how we put into their mouths the strongest arguments to effectuate their designs; and, let me again repeat it, there must always exist inquietude both among States and individuals wherever you attempt to change the mode of organizing a department, and every amendment you make tends to weaken the bond of our Union. The idea of the friends of the resolution, on the subject of changes in the Constitution, therefore, is wholly erroneous, when they suppose there is nothing to be considered but what they call the public will; and they have made the mistake by regarding the Confederacy as a consolidated Government. But it partakes of this equality in no instance, except in the operation of its laws. Here it reaches our citizens as one people, regardless of State limits and State inequalities. It is this property alone which forms the distinguishing characteristic between that system and the Confederation. Here we operate upon the people, and there they operated on States through the medium of requisitions. I am sensible I have availed myself to the full extent of the patience of the Committee, and shall conclude with an exhortation that we do nothing which may affect the harmony of our Union; and that we revise, and revise again, this resolution, before we stamp it with our sanction.

Mr. JACKSON.—Mr. Speaker, when I came to the House this morning, nothing was more foreign to my intention than to trespass upon their indulgence, but the importance of the subject, and the bold and daring assertions made by gentlemen in the opposition, will be my apology for the remarks I shall make, and I promise the House as a remuneration for the attention they may honor me with, to be as concise as possible. Sir, I must call that a bold and daring assertion, made by the gentleman from North Carolina, (Mr. PURVIANCE,) that if the small States had contemplated a change in the Constitution, and had not considered it as inviolable and intangible, they would not have come into the Union; when I look at the Constitution and see used not vague expressions or dubious language admitting of its amendment, but an express article, to wit: the fifth, authorizing amendments and designating the mode by which they may be obtained, which declares that—

"The Congress, whenever two-thirds of both Houses

shall deem it necessary, shall propose amendments to the Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by Congress."

And when I consider the perspicuous and emphatical language used by its framers, that they have not inserted a single clause not intended to have a full meaning, and that they were incapable of holding forth a feature in the Constitution which should be construed contrary to the plain acceptance of it, I am induced to believe that the gentleman has not paid a proper attention to the subject, or he would not have hazarded the observation.

The same gentleman has said, we are about to encourage fraud, intrigue, venality, and corruption, by the passage of this resolution; my respect for decorum and the rules of this House prevents me from answering this assertion in the language it deserves. I may, however, be permitted to say that the reverse will be the case; and I contend that there is more danger that fraud, intrigue, venality, and corruption, will be practised in cases resulting from the Constitution as it now stands, than there will be under the amendment before us, if adopted. To illustrate my position, I will suppose an understanding and agreement among the States, (for without them no election for President can take place,) that A shall be supported as President, and B as Vice President; will not the importance of the office, and the probability of success, under the want of the discriminating principle, warrant the assertion that there is great danger of intrigue, to secure the election of B, the ostensible candidate for the office of Vice President to the Presidential chair, by reducing some of the Electors in one of the States to violate the agreement thus made with the sister States, in voting for him only, whom none but themselves, and those active in the intrigue, contemplate to be President, and thereby a President will be crammed upon us, whom nine-tenths of the people never thought of? Much has been said by gentlemen respecting the spirit of compromise and accommodation which governed the framers of the Constitution, and it is contended that this spirit of accommodation and compromise will be materially affected, and one of the main principles of the Constitution violated by this amendment. I admit that a spirit of compromise and accommodation influenced some of the framers of that instrument, but I deny that it was mutual. There certainly was a noble magnanimity evinced in the accommodating spirit of the Representatives of the large States, to induce the small States to come into the Union, but that spirit was not reciprocal. I believe that those who represented the large States justly estimated the danger and rivalries of neighboring States, if not subject to one confederated Government, competent to their individual protection. The

fate of other little Republics warranted the idea that the smaller members would be swallowed up by the larger ones, who would, in turn, attack each other; and that the liberty achieved by the blood of some of the bravest men that ever lived would pass away without leaving a trace behind it. They, therefore, yielded everything to the little States, knowing they were most numerous, and naturally jealous of the large ones. If we examine the Constitution, we shall find the whole of the great powers of the Government concentrated in the Senate. They have the sole power of trying impeachments, and of making treaties. Congress may declare war; but, once declared, they cannot make peace; that power as well as the boundless, undefined, treaty-making power, generally, are exclusively vested in the Senate; in the Legislative power they possess an absolute veto on the passage of every measure sanctioned by the Representatives of the people; and how are they chosen? Two from each State; the smallest State has the same influence in that body with the largest. In the choice of Electors of President the small States have this additional extraordinary privilege of choosing one Elector for each Senator, and if the election of President comes into the House of Representatives each State has equal power. The small States also possess the power, under the Constitution, of reducing the Representatives on this floor to one from each State, and in such event of completely controlling the power of the large States in every department of the Government, for the Constitution, says:

"The number of Representatives shall not exceed one for every thirty thousand, but each State shall have at least one Representative."

I therefore think that, in the formation of this Constitution, the accommodation was exclusively on the part of the large States, and that, of course, it was not reciprocal. Though the large States have not their due share of power, I do not complain. I only infer that, as the small States have almost all the power of the Government, or may get it by amendments, and as they are vested with all this power, without an equivalent given to the large States, they are most interested in the existence of the Constitution, and if most interested in its preservation they are also most interested in the adoption of this amendment, because I have proven that intrigue and corruption are more likely to occur under the Constitution, wanting the discriminating principle, than under the amendment now proposed; and I ask gentlemen whether any engine that can be set in motion will be more destructive to this Constitution than fraud, intrigue, venality, and corruption? Sir, the friends of republican Government have justly considered that the great danger it has to dread is from overgrown Executive power, and from the desperate efforts of aspiring individuals to obtain it. Render the election a matter of chance, make the Electors vote blindfolded, as they now do, and often indeed will the election come into the House of Representatives, where (I wish to be under-

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stood, I speak not of the present time, I believe the present Representatives would spurn at every effort to influence them improperly,) intrigue, venality, and corruption will be brought to a focus with wealth and all the allurements of office in the train, arrayed against virtue, and the wishes of the nation. Will there not be great danger that corruption will be played off here in such a way as to induce the members to disregard the voice of the people, and elevate to supreme Executive power an aspiring individual? Sir, experience has borne testimony against the present mode of election. Let us not reject its admonitions. By recurring to the situation of this country, not long since, it will be recollected that there was serious danger of a dissolution of the Government, and I believe it was felt in the most remote parts of the United States. Under the discriminating principle now contemplated, the election will not, probably in one case out of a hundred, be brought into the House of Representatives, and the awful crisis of alarm, to which I have alluded, never occur again.

I observed, upon a former occasion, when this subject was before us, that the polar star of republicanism was, that the majority should govern; and that, so far as we have deviated from that principle, our Constitution is anti-republican. Shall we reject the present favorable opportunity to give efficacy to that principle in a most essential branch of our Government? and, by adhering to a mode which experience has proven is fraught with imminent danger, suffer the minority of this nation to choose a President of the United States? For, unless we sacrifice the election of Vice President, they may vote for him whom we intend for that office, and thereby make him, contrary to the wishes of the majority, the President of the United States. If we desire to reward talents and patriotism with the highest office in the power of the nation to bestow, we shall be obliged to give up the Vice Presidency to the minority, and thereby set a price of \$80,000 on the head of the President, with all the honors and offices of the nation, to be given to a political enemy. I hope, sir, as such a state of things may happen, we shall take care to guard against it. The gentleman from Connecticut says this subject is not understood by the American people, and, that it may be understood, he wishes it to be discussed here, in the newspapers, and in the State Legislatures. Sir, it has been, long since, discussed here and elsewhere, and is, in my opinion, well understood. In several State Legislatures, whose politics correspond with those of that gentleman, (and which will, therefore, be allowed by him to have been uninfluenced by party zeal,) as well as in States which correspond in political opinion with the majority of this House, it has been repeatedly examined, and the States have almost invariably concurred in recommending the discriminating principle, in the election of President and Vice President. Can there be a stronger evidence of its justice than its being recommended at a time when party views were out of the question? The gentleman is correct when he

says the interests of the States are implicated by this amendment. Sir, I believe there are talents and virtue sufficient in the State Legislatures to discern the import of measures implicating their interests, and to adopt or reject them as those interests dictate; they will not be thankful to the gentleman and his political friends for attempting upon this, as on a former, occasion, to guard the people against themselves as their worst enemies. Much has been said against the details of this amendment. I acknowledge, sir, I am one of those who do not like them all, but I think the cases in which inconvenience is apprehended, so extreme and unlikely to occur, that I am unwilling to hazard the great principle of the amendment on account of them. I am not disposed to risk a certain good, by guarding against a visionary evil, which it may be supposed will result from it. I believe the guarding against the right of the Senate to elect a President would be providing for an extreme case that will never happen. For, as I before observed, it is not likely that the election will come into the House of Representatives for a century to come, if the discriminating principle be adopted; and when it does come into this House, it is not to be presumed they will neglect to make a choice, when, in that case, they know the Senate have the authority. I ask, if a man would not be esteemed mad, who, having a ship and its cargo in the hands of an enemy, should refuse to accept the restoration of the one without the other? As the Constitution at present stands it has, in a great measure, placed the election (as I have attempted to show) in the hands of a minority—in the hands of political enemies—and out of the control of the majority? Shall we suffer this to be the case, because we cannot make the resolution more perfect; although we acknowledge it contains a most essential amendment, and almost all the States, before the prevalence of party spirit, declared an alteration necessary? These are my reasons for voting for the resolution, and I hope it will be agreed to.

Mr. STANTON.—Mr. Speaker, I exceedingly regret that I cannot forbear troubling the House with a few remarks, in justification of the vote I am about to give, on the all-important resolution on your table, for amending the Constitution of the United States. Sir, that venerable body, who were the framers of that valuable instrument, presupposed that, after its merits had undergone the ordeal of experience, it would need amendment. All intelligent, well-disposed men, of every description, agree that the main object of Government is, or ought to be, such as expressed in the language introductory to our Constitution: "to promote the general welfare and secure the blessings of liberty to ourselves and our posterity;" that being the case, it strongly recommends the adoption of the resolution in contemplation. That part of the national compact that relates to the choice of President and Vice President, which does not permit the Electors to designate on their ballots who they vote for as President and Vice President, which envelopes the Electors in darkness, and cannot be reconciled with the good pur-

pose of the Convention, but by their own sentiments expressed in their letter to the President of Congress, signed by their illustrious President, the words are emphatical :

"This important consideration, seriously and deeply impressed on our minds, led each State in the Convention to be less rigid on points of inferior magnitude than might have been otherwise expected, and thus the Constitution, which we now present, is the result of a spirit of amity, and of that mutual deference and concession which the peculiarity of our situation rendered indispensable."

For it evidently appears that the divided situation of the Convention was such, in consequence of the difference among the several States as to their particular extent, habits, and particular interests. This being the case, the Convention was obliged to submit to improprieties and imperfections, and to wait the test of experience on the merits of the compact. Sir, I am hostile to the doctrine advanced on this floor, that the least innovation in this sacred charter would endanger the tranquillity of the Union. At the same time, I admit that it should not be touched but for cogent reasons and emergencies like the present. Sir, that Constitution which, in its operation, tends most to promote the happiness of the people, by rewarding intrinsic merit, defending the innocent, and affording speedy and effectual redress of grievances, is the best. No doubt but the framers of the national compact, in all their deliberations, kept in view the greatest good of the people. And, while I am disposed to pay homage to their superior talents and patriotism, I am unwilling to pay them a compliment or encomium that may, in the least degree, depreciate the good sense of their creator, the people. I believe our Constitution is as free from imperfections as any on earth, yet it is, like all other human productions, susceptible of improvement. Sir, the fifth article in the Constitution says :

"The Congress, when two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the Legislatures of two-thirds of the several States, shall call a Convention for proposing amendments, which, in either case, shall be valid to all intents and purposes as part of this Constitution, when ratified by the Legislatures of three-fourths of the several States, or by Conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress; and that no State without its consent shall be deprived by its equal suffrage in the Senate."

This article, that forever keeps open the door for amendment, and secures an equal suffrage in the Senate, and gives an equal vote in the choice of a President, in the event of no choice by Electors, is the life, beauty, and quintessence of the Constitution. Sir, I recollect that, yesterday, when this subject was discussed, an honorable member from Connecticut repeatedly called on the friends of the resolution to point out one evil that had resulted to the people of the Union from the existing Constitution. Sir, permit me to ask the honorable gentleman where he was at the awful crisis of the Presidential election, when the

public mind was agitated and tossed to and fro on the tempestuous sea of doubt, and forced to the verge of despair? Surely the honorable gentleman must have been out of the United States, or out of his senses, or he must have lost his usual sagacity, patriotism, and sound regard for the honor of his country, or he must have recollected the alarming catastrophe. Even had he been among the antipodes, who walk on the other side of the globe, with their feet opposite to ours, he would almost have heard the destructive sound, which seemed to be from the clouds, and penetrate the solid earth. Sir, I ought to apologize for this digression and detention of the House; but, while I am up, I hope to be indulged to make a few remarks on what dropped from an honorable gentleman from Pennsylvania, who appeared an able advocate for the discriminating part of the resolution, and opposed the clause relative to the ex-President acting as President in the event of certain contingencies. But, he suddenly seems to change his ground, and says, the most objectionable part of this amendment, in the opinion of many gentlemen, and against which the gentleman from Vermont in particular has levelled his keenest darts, is that which vests the Vice President with power to discharge the duties of President in the event of a President not being elected; and proceeds by saying, at first view it appears liable to objections, but, on a candid and fair investigation, the objections lose their weight and the principle is found, in his opinion, correct. Sir, I beg leave to differ with the honorable gentleman, not only in this, but also on another position, where he says, it will also operate as a stimulus to the House of Representatives to make an election. I think, sir, it will produce a contrary effect; they will, I fear, consider themselves exonerated from the imperative language of the present Constitution, that says: "They shall immediately choose a President." Sir, after viewing the whole ground, and notwithstanding the imperfections of the resolution in its present form, as it contains the discriminating principle, which alone was all I wished to obtain, I shall give it my feeble support. Being fully impressed in my mind that, by adopting the designating principle contained in the resolution, it will frustrate the machinations of factions, secure in future a fair expression of the public will, and tend to increase the domestic happiness, and national prosperity and glory.

Mr. GREGG said, he regretted the expression he had made yesterday, as it appeared to have given dissatisfaction to some gentlemen. That expression had, however, been misconceived. He had said, that the people were in favor of the discriminating principle; he had said that this country was divided into two parties, and that an amendment for the establishment of this principle had at one time been brought forward by one party and then by the other; he had said that one of these parties was called republican, and the other federal. He did not consider this last term an imputation on any gentleman. Some gentlemen were called federalists; he was called a republican. They differed, it was true, in political sentiment;

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but he had never understood that gentlemen thought there was anything reproachful in being called federalists; on the contrary, he knew the time when the epithet was deemed honorable.

Mr. LEIB moved a postponement of the subject till Monday. Lost—ayes 41.

A motion to adjourn was then made, and lost.

Mr. ELLIOT.—There are two or three remarks, which fell from me in the animation of debate, I wish to explain. I used the observation of rash precipitancy as applicable to the majority in this business; of personal indecorum, imperious necessity, and Senatorial authority, as applicable to particular members. I also observed that there were men of both parties, who, in my opinion, were aspiring and unprincipled. I beg leave explicitly to state that I did not, at the time I made this remark, entertain an idea of any individual citizen. I alluded to no particular person. The remark was general, and I believe it to have been just. As to the charge of rash precipitancy, I did not mean to apply it to the majority. Perhaps I was wrong in making it; I hope I was. When, at an advanced stage of the debate, I intimated a wish to be heard, when no more than one day had been spent on the subject, and when I declared myself too much exhausted and indisposed to declare my opinions at that late hour, the House, by a great majority, deprived me of the time necessary to do justice to my ideas. For a moment, I felt myself placed in a humiliating and degraded situation; in such a situation as I thought no Representative, and particularly a Representative of one of the largest districts in the Union, containing a population of between fifty and sixty thousand souls, ought to be placed. If there was in this procedure anything of rash precipitancy, it was, perhaps, the error of the moment; and what I considered at the time as the offspring of temper and passion, may have been nothing more than an evidence of that disposition to which the greatest men have told us the first bodies in the world are sometimes exposed. If the body did, for a moment, yield to this disposition, I am ready to acknowledge that it has amply atoned for it by the magnanimity and patience it has since exhibited. I also made the charge of personal indecorum. I thought that it really existed. I thought it indecorous for any gentleman to tell other gentlemen that they had personal knowledge of dishonorable intrigue practised on a late important occasion. As to the imputation of Senatorial authority, I am still of opinion that this charge is merited by gentlemen who say we must take this resolution precisely as it came from the Senate, or lose everything. I conclude what I have to say on this subject, by declaring that, whatever warmth I may have exhibited in this debate, the vote which I am now about to give is the result of the coolest deliberation, and in conformity to the most sincere dictates of conscience.

Mr. J. RANDOLPH said, that they had been told the other night, by the gentleman from Connecticut, (Mr. GRISWOLD,) that it was necessary to procrastinate this decision in order to give time for that thorough investigation which it was then

contended had not taken place. From the promise which was held out on that occasion, and from the time which had intervened, his expectations had been wound up to a very high pitch; whether they had been gratified or not he would leave the House to determine. Since the gentleman had expressed a desire, and the House had affirmed it, that this discussion should be protracted, Mr. R. hoped that he, on this subject, (whatever might be the ease on others, where he was compelled to defend what it was his duty to originate,) had occupied as little of their time as most of those who had discussed it, and might be permitted to make a few remarks in reply to those which had fallen from gentlemen.

He would begin with those of the worthy member from Massachusetts, (Mr. EVRIST.) He has stated that this amendment embraces three objects: The designation of the persons voted for as President and Vice President; the mode in which the choice of President should be made by that House, in case of no election by the Electors, in the first instance; and the provision that the duties of President should be exercised by the Vice President, if the House of Representatives should also fail to make an election. To the first of these provisions, the gentleman from Massachusetts felt himself warmly attached, but could not be brought to adopt it, when combined with the other two. On the first objection which he had taken, the gentleman had dwelt so short a time, and with so little force, and the difference between electing out of "the five highest," or out of those "having the highest numbers not exceeding three," was, in itself, so trivial, that little reliance seemed placed upon it. The possible succession of the Vice President to the Presidency, appeared to form the chief obstacle, and because he conceived it calculated to defeat the discriminating principle he could not be prevailed upon to assent to any amendment into which it was incorporated. And yet against this very principle of designation, the gentleman from Connecticut (Mr. R. GRISWOLD) has made his utmost exertions, as subversive of the original ground of compact between the States. Let me ask, said Mr. R., upon what ground these gentlemen will vote together against this amendment when their views of its tendency are so entirely opposite, and when they are equally opposed in opinion as to what ought to be effected by us. I beg, sir, this inquiry may be understood to proceed from the high respect in which I hold the gentleman from Massachusetts, and from the regret which I must always feel in being compelled to act against him. It is dictated only by my anxiety to add the sanction of his character and his talents to every measure in which I may be concerned. The gentleman from Massachusetts advocates the discriminating between the persons voted for as President and Vice President; the gentleman from Connecticut deprecates it. The first gentleman is opposed to the amendment because it is calculated to defeat this principle of discrimination; the second because it contains it. When these gentlemen assigned such opposite and irreconcil-

able objections, I hoped they would not unite their votes against the amendment—that one of them would become a convert to the other, and that we should derive some support from them on the question. But there is one point on which they agree. They contend that it does not become us to suppose that the House of Representatives can refuse to obey the imperative voice of the Constitution, which commands them to elect a President, and that the provision of the Senate for such an emergency contains at once an unwarranted imputation on that branch of the Legislature, and an inducement to them to swerve from their duty. The supposition that this House will refuse to make an election when it is enjoined upon them by the Constitution, is said to be degrading, and therefore inadmissible. We are exhorted not to libel ourselves on our own statute book, and a late case is adduced to prove that all fears on that head are groundless. From that case I draw directly an opposite inference. Gentlemen then told us, we are highly averse to both the persons from whom we are to select a President, but there are shades in our dislike; we conceive that we have a right to be indulged with the candidate whom we consider the least obnoxious to our principles and views. If a mere shade of dislike between two persons whom they highly disapproved would warrant such an opposition as we then saw, what would have been the struggle if the choice had been to be made between the gentleman who succeeded to the Presidency, and either of those who were held up for that office from Massachusetts or South Carolina? Does any man believe that we should have succeeded in an election under such circumstances? Would the gentleman from Connecticut have abandoned his principles in that case, or does he expect that we should have surrendered ours?

I put it to the gentleman himself whether he could under such circumstances have relinquished his own judgment and principles. I ask if he could have justified to himself the giving of such a vote? I answer for him that he could not. I take upon me to say so, because I could not have justified it in myself. I never could have justified myself, because the House of Representatives are directed to choose a President, in abandoning a candidate for whom I had the highest confidence, and voting for one of whom I felt the greatest diffidence. The Constitution enjoins it upon this House to make an election, but it cannot enjoin upon any man an abandonment of his judgment and his principles. When we have conscientiously given our votes we have discharged our duty. It is equally our business to pass laws and to perform other important functions. But does that imply an obligation on any man to vote for laws which he believes impolitic, oppressive, or unjust? If the case which I have put had actually occurred, I presume we should have broken up without an election. For one I do not hesitate to say, that I would have continued balloting till the 4th of March, and let things take their course.

Let us suppose such a case to have happened. The gentleman from Massachusetts objects that

the provision discriminating between the President and Vice President will be totally defeated, since the Vice President, chosen either by the Electors or the Senate, will succeed to the Presidency. Is it not better that a person selected by the Electors, who are apprized of the contingency, or by the Senate out of two presented to their choice, should succeed to the Presidency, than that anarchy should ensue, or desperate measures be resorted to for carrying on the Government? Will it not serve to diminish the violence of the conflict here, when this House is apprized that it does not rest with a party within its walls to defeat the election of President altogether? But this we are told will give rise to endless intrigue. The Vice President, if any, or candidate for that office, will use every means to prevent an election, in hopes of succeeding to the Executive power. Do gentlemen reflect that this argument equally applies to every case of election by the House, as the Constitution now stands? Is it not as easy for a candidate for the Presidency to intrigue, in order to effect an election, as for a Vice President to intrigue to defeat one? When two or more men come into this House as candidates for the office of President, are not their inducements to intrigue as strong as any which can exist under the proposed amendment, and is not the event of an election by the House of Representatives much more probable under the present than under the proposed amendment?

To vote for two persons, without designating which is intended for the President and which for Vice President, is, we are told by the gentleman from Connecticut, to insure the selection of the two most capable men in the United States for those offices, respectively; but if a discrimination be made, combinations will take place between the States, and the Vice President will become a weight to secure the election of President; that he will be selected rather with a view to the State of which he is a citizen, or to his influence with particular Electors, than his worth or abilities. So far is this from being true, in my opinion, that a designation is absolutely necessary to secure the election of a fit person for the office of Vice President. When the Electors designate the offices and persons, respectively, for whom they vote, after choosing the person highest in their confidence for President, they will naturally make choice of him who stands next in their esteem for Vice President; but where they are not permitted to make this discrimination, they will, to secure the most important election, give all their votes to him whom they wish to be President, and scatter the other votes; thus leaving to chance to decide who shall be Vice President. Where a discrimination takes place, the Vice President will necessarily be a man standing high in the public confidence. Where it does not take place, it is more than probable that he will be a secondary character. But we are told that it is degrading in the lowest degree to suppose that there is but one person in the United States equal to the Presidency. Far be this idea from me. Were I of this opinion, weak as I am, I should expect to sur-

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vive the Constitution—since I may reasonably expect to survive the term of the present Chief Magistrate. But whilst I admit that there are hundreds capable of filling the office, I do not believe it possible to present to the public, or to an individual, two candidates between whom there will not exist a preference. This is the nature of man, and it is the nature of free Governments to gratify this preference.

But the gentleman from Connecticut has gone into a wide field. He takes a view of the elementary principles of our Government, which he states to be consolidating and federal, and he declares that the discrimination attempted to be introduced will violate the last of those principles, to which he professes himself particularly attached. It is a matter of some surprise to me that, agreeing so nearly as we do in general principles, we should differ so widely in our conclusions. With some variation of expression, (perhaps of ideas,) I subscribe to his general doctrine. With him, I consider this a Government of States—as a Federal Government. Inasmuch as it tends to consolidation, by so much is it objectionable to me.—With him, I prize the federal principles on which it is founded, and I will join that gentleman, or any other, in heightening every federal feature of the Constitution. I consider it, too, not only a Government of States, but as a compromise between States of various dimensions and interests. When embarked in one common bottom, with a common sword and common Treasury, it became necessary to give the large States a superior degree of influence, to induce them to put their superior wealth and population at the disposal of the Confederacy; whilst the small States were to be secured against encroachment. While, therefore, they are equal in the Senate, on this floor the States are represented in proportion to their population and wealth—their influence in the choice of President is compounded of their influence in both branches of the Legislature. This is the basis of the Constitution, and carries compromise in every feature. I will venture to say, that even this House is not organized on the principle of a consolidated Government, because the representation on this floor is not of the whole mass of the people of the United States, but it is a representation of each State. The United States are not divided into as many districts as there are members, nor is there a general election, but each State sends its own delegation; and the rule of apportionment of representatives is an additional proof that this is a federative Government and a Government of compromise. If I were to point out the part of this Constitution which tends most to consolidation, I should lay my hand on the Judiciary. The giving to that department jurisdiction not only under Federal laws, but in cases between man and man, arising under the laws of a State, where one of the parties is a foreigner, or citizen of another State, and even between citizens of the same State under the bankrupt system, is the strongest feature of consolidation in this Government. I will go all lengths with gentlemen in abrogating this jurisdiction—

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in restoring the federal principle to this department of Government. I wish to see the day when the jurisdiction of the Federal courts shall be confined to cases arising under the Federal laws.

Mr. R. apologized for the digression into which he had been carried by the view which the gentleman from Connecticut had taken of the principles of our Government. It is contended that the discriminating principle of this amendment goes to destroy the compromise between the States, since it will annihilate the power of the small States. To this I conceive it is an unanswerable reply that if such be its effect it can never become a part of the Constitution.

Five States may put their veto upon it. Rhode Island, Delaware, Ohio, Tennessee, and Georgia, are five as small States as can be found in the Union. They belong to the great subdivisions of the country, Eastern, Middle, Western, and Southern. These five States, judging from their representation, contain less than one-twelfth of the population of the United States. Eleven-twelfths of the Union may be forbidden by these States from adding this amendment to the Constitution. An additional proof that this proposition is not injurious to the smaller States is, that the Representatives of those very States have expressed their approbation of it. If, on the contrary, as has been contended by other gentlemen, this amendment impairs the influence of the large States, Massachusetts, New York, Pennsylvania, Virginia, and North Carolina, will reject it. But a strong proof that it neither affects the interest of the one nor the other is, that objections have been made to it on both these grounds. Whilst, however, the gentleman from Connecticut combats this discrimination as subversive of the rights of the small States his friend from Maryland (Mr. DENNIS) objects to it because the last provision renders nugatory the discriminating principle. Does the gentleman mean to disarm his friends of their objections to the amendments and induce them to support it; or does he, relying on their stability, expect to excite alarm in its friends and thereby defeat it? The gentleman and his friends have uniformly opposed all discrimination, and now it seems, he objects because that object is likely to be defeated. This objection the gentleman from Connecticut had, with his usual clear sightedness, cautiously avoided. He knew better the real bearing of the amendment, and if such had been the effect of the last provision, the amendment would never have received so strenuous an opposition from him. No sir, it is because he sees this principle, so obnoxious to him, existing unimpaired in this amendment, that he has thrown every obstacle in his power against it. He has indeed taken the objection that it will open the door to intrigue—for so soon as any man is put in reach of the Presidency you arm him with the power, whilst you give him the disposition to corrupt the Electors. It will therefore be the interest of the Vice President to defeat an election by this House. But will not the disposition and power to intrigue be equally brought into action as the Constitu-



tion now stands, when two or more candidates shall be presented to that House for their selection? And is not the probability of such an event diminished by discriminating between the officers? I conceive this provision, by lessening the chance of an election by this House, has done much. It will tend in a great degree to strengthen the union of these States, which never was more endangered than at the last election. The gentleman from Connecticut complains that the events of that period have been grossly misrepresented. Whether that be the case or not, I have no hesitation to state that it was, in my opinion, a period of imminent danger to this country. It was a crisis such as I hope we shall never again be exposed to, and to avoid its recurrence is my motive for advocating the amendment which has been sent to us, and which is as unexceptionable as any which I believe at this time attainable. The worst that can befall us will be the exercise of the duties of President by the same person who would be called upon to discharge them in case of his death, resignation, or removal from office.

Mr. EUSTIS.—If at this late hour I could expect the attention of this House, I should derive a peculiar satisfaction in replying to the observations of my friend from Virginia; and as from present indications I have a right to experience that indulgence, I shall proceed with the same candor which has distinguished the remarks of that gentleman, with whom it would be my pleasure to act on this as on other occasions.

That gentleman expresses his hope, as the resolution under consideration embraces the great object had in view, that those who are desirous of attaining this object will not refuse their assent to it because the resolution contains other provisions which he terms of an inferior or secondary nature. It is necessary to review the resolution, and I must repeat the objections which were made when it first came under consideration. I stated at that time that it differed widely and materially from the resolution sent up by this House to the Senate, and on which it does not appear that the Senate have acted. That resolution contemplated a single object, viz: a designation of the persons voted for as President and Vice President. The resolution of the Senate I also stated to consist of three distinct and separate propositions: the first containing what has been termed the designating principle; the second reducing the Constitutional number of candidates from whom the House of Representatives are to choose, in case there be no choice by the Electors, from five to three; the third providing in case there shall be no choice by the House of Representatives, that the Vice President shall be President of the United States. The first provision, that of designating, appears to me, and the House will recollect, and the gentleman from Virginia will also recollect, that I then stated this to be a modification rather than a change of a Constitutional rule or principle, by which the votes of the Electors, given in that case as they are now given under the Constitution, will be subject only to this alteration, that the person voted for as President, and the person

voted for as Vice President, will be respectively designated in distinct ballots. This is the alteration contemplated in the resolution which passed the House—this embraces the whole of the change contemplated by the House and by the public—this is the amendment which I continue to approve, and against which I have heard no substantial objection.

The second amendment proposed by the Senate, it may also be recollected, was objected to on two grounds: first, that it contemplated another important alteration in the Constitution in a point where no evil had resulted, and where no inconvenience had been experienced. Without any reason, it proposed to narrow the choice of the House from five to three. It has been contended—and I hope the gentleman from North Carolina will take this as an answer to his observations—it has been contended by that gentleman, as well as others, and with some ingenuity, that the President and Vice President are to be chosen from the five highest candidates, by the Constitution; and as, by the resolution, the President is to be chosen from the three highest, and the Vice President from the two highest, that the three and the two make five, and of course there is no difference; and the gentleman, therefore, does not see how the resolution can be objected to on this ground. But it will be seen that at present, and under the Constitution, the President is chosen from five; if the proposed amendment be adopted, he must be chosen from three candidates; making a change, and narrowing the choice from among the candidates, from five to three. The election of Vice President, by this amendment, is totally changed; he is to be chosen at another time and in another place, and gentlemen must see that his election bears no relation to, and cannot be coupled with, that of the President.

The second objection to this amendment was grounded on the indefinite mode of expression—"from the persons having the highest numbers, 'not exceeding three, on the list of those voted for as President, the House of Representatives shall choose immediately by ballot.'" There is a want of precision in these words. Some gentlemen understand it as limiting the choice to the three highest candidates, while others suppose them intended to embrace five, ten, or fifteen, if there be so many having an equal number of votes in the three highest grades; and, if gentlemen on this floor differ in their construction, is it not to be expected that the State Legislatures, when they come to consider, and the House of Representatives of the United States, when they come to act under it, will also differ?

The third proposition provides that, if the House of Representatives shall not choose a President before the fourth of March following, the Vice President shall act as President, as in case of his resignation or death—another and a still more important change in the Constitution. To this I did object, and I do still object, because it is predicated on a concession which I am not willing to have ingrafted in that instrument. It is predicated on a presumption that the House of Representa-

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tives may refuse to carry into effect the public will—that they will refuse to obey the imperative language of the Constitution, which ordains that, in case there be no choice by the Electors, *they shall immediately proceed to a choice*; because it assails a first and fundamental principle—it presumes on a privation or absence of political morality, on which all our institutions rest. The Constitution cannot exist if this principle become extinct.

The formation of this House—which is the democratic branch of the Government—how is it effected? In apportioning the representation of the several States, the words of the Constitution are,—“The State of New Hampshire shall be entitled to three Representatives.” Suppose the people of the State of New Hampshire had declined to choose their Representatives, has this House the power to compel that State to exercise this right? They have not; and if other States had, from whatever motives, pursued a similar course, this House could not have been formed, and the Constitution must have been defeated.

A sense of interest and of political obligation are the basis and the security of the Constitution, and distinguish the people and Government of this from those of other countries; if you presume on its absence, you discourage, you diminish, you destroy it. “If the House of Representatives shall not choose.” The House of Representatives will not refuse, they will not dare to refuse; the transaction which is passed proves they dare not defeat the will of the people. But if you make this amendment you furnish them with an apology, with an excuse, with a justification for refusing; and, what is worse, you tempt them to refuse; you presume, at least, that they may refuse. The high responsibility imposed on the House by the Constitution is destroyed. This provision will be pleaded in justification of their refusal to make a choice; and when they shall refuse what is to be the consequence? The officer whom it is intended to be defeated, by the first resolution, is promoted; the man whom the people never intended should be President, the Vice President, becomes President of the United States. The Vice Presidency will thenceforth become the office of importance to be secured in the Government, and by the means, and with the temptation, which will be in his power to offer and to use, he will finally become President.

I am sensible this is a provision in a last resort, and which cannot take effect excepting in case of a failure of two other processes: that of the Electors first, and that of the House in the second instance; and I am also sensible that the three provisions for securing a President stand separate from each other; but it is true, and it will be found in practice, that they have each a relation to, and bearing on the other. The responsibility of the Electors will be diminished, the House of Representatives will feel less responsibility, encouragement will be given to intrigue, and the means which have been, perhaps, too often alluded to on this floor, will receive a facility in the hands of the person who shall be chosen Vice President, which

may become dangerous to the public peace and destructive to the public happiness.

These are the objections which I made to the resolution under consideration: a review of the subject has not diminished them. We continue to approve the designating principle—we approve the number five of candidates from which the House is to make a choice when the election shall be brought there. My friend from Virginia was with us in opinion on these points; our affirmative vote is on the Journals; if there be any change of opinion, that change is not with us, it is the majority of the House who have changed. And what reason is assigned for the change? What is the reason assigned by the gentleman from Virginia? That this is the best or the most he can attain, or that, as he gains the discriminating principle, he is willing to take the two other amendments which the Senate have added. We ask to be satisfied that we are reduced to this alternative. It is not satisfactory to be told that the Senate will not recede when they shall be made acquainted with the objections of the House; we ask for an intercourse with them—we desire that the rules of procedure in ordinary business be observed in this. With this view, I moved yesterday that the resolution might be committed; that we might send a message to the Senate, asking an answer to the proposal made to them for their concurrence in the resolution which passed the House, or to propose a committee of conference. The motion was negatived—it was said not to have been a custom in this Government to send such an order or message. Without pretensions to much experience, I know it must be in order. I know it must be consistent with parliamentary rule to send messages of this nature. In what other manner is the sense of one House to be made known to the other? On a subject of this importance, where there appears a difference of sentiment in the two Houses, some intercourse ought to be had, and some explanation is required. Perhaps the Senate, when they shall become possessed of the objections of the House, will be willing to recede from one or both the alterations which they have made in our resolution. When we ask them to institute this inquiry, gentlemen rise in their places and tell us, the Senate will not recede; and this is all we can have—this is not satisfactory.

By what means can gentlemen know this? It is due to those who object, and it is due to the House, that the inquiry should be made, that the ordinary course should be pursued. The resolution in the meantime will remain in custody of the House, and if there shall be a conviction that the Senate will give up nothing for the sake of accommodation, it may finally be adopted; until this course shall have been pursued it is unreasonable to press a decision. Many gentlemen who approve of the designating principle are opposed to the amendments proposed by the Senate. Some of those gentlemen have expressed their disapprobation; some of them will be compelled to vote against the resolution if insisted on at this time.

On the subject of amendments generally, two

of my colleagues have expressed sentiments not founded in a knowledge of the letter or spirit of the Constitution. One of them, a reverend gentleman, (Mr. TAGGART,) speaking of the constitution of Massachusetts, ascribed great wisdom to the framers of that instrument, because they had provided that it should not be amended until after the expiration of fifteen years; that within that term an insurrection had prevailed in the State, and if the constitution had admitted of being amended or altered at that time, the temper and disposition of what he has called the public mind were such as would have cast the State afloat on the ocean of anarchy. Sir, that worthy gentleman is not acquainted with the constitution of his own State. That constitution is bottomed on the principle that the people have at all times a right to alter, to amend, and change their form of Government, whenever their own interest or their own happiness shall in their opinion require it.

Impressed with this principle, the framers of that constitution provided by an express article that the General Court which should be in session fifteen years after the adoption, "shall issue precepts to the several towns and plantations, calling a convention in order to take the sense of the people, whether they wished for any alteration." Understanding their own constitution, and knowing that they have at all times the right to alter and amend it, the people of the State have rested easy under it without alteration.

With respect to the Federal Constitution, are gentlemen ignorant of the difficulty with which the convention of Massachusetts finally adopted it? Do they recollect that amendments were for a long time insisted on as a condition of the ratification; that the people of that State having gone through the war under a federative Government very different from this, were afraid of the powers granted by the new Constitution; that their fears were extensive and influential; and that this Constitution was finally adopted, because it carried with it the means of being altered and amended as time and experience should suggest, and because the State Legislatures as well as Congress had a right to institute amendments?

One of the gentlemen (Mr. THATCHER) has quoted an authority to which every member of this House will bend with respect and attention. But the passage he has quoted, makes directly against him. Whilst we are cautioned against alterations under the garb of amendments, we are invited to adopt such as "experience" shall recommend, and the object of this amendment so far as it respects the designating principle is suggested by experience; that the true way to preserve the affections of the people for this Constitution is, to recur to the principles and conditions with which it was adopted, and instead of objecting, to give facility to such amendments as experience shall suggest.

When Mr. EUSTIS had concluded, the question was taken, and decided in the affirmative, by yeas and nays, two-thirds of the members present concurring in their agreement to the said resolution of the Senate, to wit—yeas 83, nays 42—

and Mr. SPEAKER declaring himself with the yeas.

YEAS—Nathaniel Macon, (Speaker,) Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Jno. Dawson, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Findley, John Fowler, Jas. Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Daniel Heister, Joseph Heister, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winstons, and Thomas Wynns.

NAYS—Simeon Baldwin, Silas Betton, Phan. Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, James Elliot, William Eustis, Calvin Goddard, Gaylord Griswold, Roger Griswold, Seth Hastings, William Hoge, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thos. Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, Ebenezer Seaver, John Cotton Smith, William Steadman, James Stephenson, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher, George Tibbits, Joseph B. Varnum, Peleg Wadsworth, and Lemuel Williams.

MONDAY, December 12.

The House resolved itself into a Committee of the Whole on the bill for the relief of the officers of Government, and other citizens, who suffered in their property by the insurgents in the western counties of Pennsylvania; and, after some time spent therein, the Committee rose and reported the bill without amendment.

*Ordered*, That the said bill be engrossed, and read the third time to-morrow.

On motion, it was *Resolved*, That a committee be appointed to inquire whether any, and if any, what alteration is necessary to be made in the law regulating the mode of selecting jurors to serve in the courts of the United States.

*Ordered*, That Messrs. EARLY, GEORGE W. CAMPBELL, DENNIS, EPPES, and HASTINGS, be appointed a committee pursuant to the said resolution.

Mr. JOHN RANDOLPH, jun., from the Commit-

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tee of Ways and Means, to whom was referred, on the eighth instant, the memorial of sundry sugar refiners, citizens of and residents in the State of Pennsylvania, made a report thereon; which was read and ordered to be referred to a Committee of the whole House to-morrow.

On motion, it was

*Resolved, by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be requested to transmit to the Executives of the several States copies of the article of amendment proposed by Congress to be added to the Constitution of the United States respecting the election of President and Vice President.

*Ordered,* That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

The House proceeded to consider a motion of the second instant, in the words following, to wit:

*Resolved,* That the prayer of the petition of Stephen Kingston is reasonable, and ought to be granted.

And the said motion being twice read at the Clerk's table, was disagreed to by the House.

Mr. FINDLEY, from the committee appointed on the twenty-second ultimo, to whom was referred a petition of sundry inhabitants of Georgetown and its vicinity, in the District of Columbia, reported a bill to incorporate the Directors of the Columbian Library Company; which was read twice, and committed to a Committee of the whole House on Thursday next.

On motion, the House adjourned.

#### TUESDAY, December 13.

Mr. THOMAS, from the committee appointed on the eighteenth of October last, who were directed by a resolution of this House of the second ultimo, "to inquire by what means the mail may be conveyed with greater despatch than at present, between the City of Washington and Natchez and New Orleans," made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Thursday next.

An engrossed bill for the relief of the officers of Government, and other citizens, who suffered in their property by the insurgents in the western counties of Pennsylvania, was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, of the eighth instant, to whom was referred, on the seventeenth ultimo, a motion relative to "the expediency of discontinuing the office of Commissioner of Loans in the different States, and of transferring the duties of that officer to the Secretary of the Treasury," with the accompanying documents; and, after some time spent therein, the Committee rose and reported to the House their disagreement to the resolution contained in the said report.

The House then proceeded to consider the said report at the Clerk's table; when, on motion, it adjourned.

#### WEDNESDAY, December 14.

Two memorials of the Mayor, Recorder, Aldermen, and Common Council, and of sundry citizens of Georgetown, in the District of Columbia, were presented to the House and read, respectively submitting certain propositions to the consideration of Congress, by way of amendments to the existing law for incorporating the said town, which they pray may be adopted, for the convenience and benefit of the inhabitants thereof.—Referred.

#### COMMISSIONER OF LOANS.

The House resumed the consideration of the report of the Committee of Ways and Means of the eighth instant, on a motion of the seventeenth ultimo, relative to the expediency of discontinuing the office of Commissioner of Loans in the different States, and of transferring the duties of that officer to the Secretary of the Treasury," to which the Committee of the Whole House yesterday reported their disagreement; and the resolution contained therein being twice read, in the words following, to wit:

*Resolved,* That it is inexpedient to discontinue the office of Commissioner of Loans in the several States."

The question was taken that the House do concur with the Committee of the whole House in their disagreement, and was determined in the affirmative—yeas 58, nays 55, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, George Michael Bedinger, Phanuel Bishop, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, John Clopton, Frederick Conrad, William Dickson, John B. Earle, James Elliot, William Findley, James Gillespie, Andrew Gregg, Josiah Hasbrouck, William Hoge, James Holland, David Holmes, John G. Jackson, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Randolph, jun., John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Caesar A. Rodney, Erastus Root, Thomas Sandford, John Smilie, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thos. Wynns.

NAYS—Nathaniel Alexander, Simeon Baldwin, David Bard, Silas Betton, William Blackledge, William Chamberlin, Martin Chittenden, Clifton Claggett, Joseph Clay, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, Thomas Dwight, Peter Early, William Eustis, Calvin Goddard, Edwin Gray, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, Seth Hastings, Joseph Heister, David Hough, Benjamin Huger, Samuel Hunt, Walter Jones, William Kennedy, Joseph Lewis, jun., Thomas Lewis, Thomas Lowndes, William McCreery, Nahum Mitchell, Samuel L. Mitchill, Thomas Plater, Samuel D. Purviance, Ebenezer Seaver, Tompson J. Skinner, John Cotton Smith, John Smith of New York, William Stedman, James Stephenson, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, Samuel Thatcher,

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George Tibbits, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, and Lemuel Williams.

And on motion, the House adjourned.

#### THURSDAY, December 15.

A message from the Senate informed the House that the Senate have passed a bill entitled "An act to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States;" to which they desire the concurrence of this House. The said bill was read twice, and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the bill giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes; and, after some time spent therein, the Committee rose and reported progress.

The House resolved itself into a Committee of the whole House on the supplementary report of the Committee of Claims, of the thirteenth instant, on the memorial of Paul Coulon, a French citizen; and, after some time spent therein, the Committee reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

*Resolved*, That there be paid to Paul Coulon, as Agent for the captors of the ship Betty Cathcart, and brig Aaron, prizes to the privateer La Bellone, out of any moneys in the Treasury not otherwise appropriated, the sum of six thousand two hundred and forty-one dollars and forty-four cents, being the amount retained by the Treasury Department from the sales of the ship Betty Cathcart, for duties on the cargo of the brig Aaron.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

On motion, it was

*Ordered*, That the report of a select committee, made the second of March last, on a letter from William Henry Harrison, President of the Convention held at Vincennes, in the Indiana Territory, declaring the consent of the people of that Territory to the suspension of the sixth article of compact between the United States and the said people; also, on a memorial and petition of the inhabitants of the said Territory; be referred to Mr. RODNEY, Mr. BOYLE, and Mr. RHEA, of Tennessee; to examine and report their opinion thereupon to the House.

*Resolved*, That a committee be appointed to inquire into the expediency of vesting the powers usually exercised by a court of equity, in the Judges of the United States within the Indiana and other Territories; and, also, to inquire into the expediency of allowing writs of error and appeals from the judgments and decisions of the said Judges to the Supreme Court of the United States.

*Ordered*, That Mr. RODNEY, Mr. BOYLE, and Mr. RHEA, of Tennessee, be appointed a committee, pursuant to the said resolution.

Mr. EUSTIS, from the committee to whom was referred, on the fifth instant, a Message from the President of the United States, enclosing sundry papers relative to the amicable adjustment of differences between the United States and the Emperor of Morocco, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Monday next.

#### FRIDAY, December 16.

A message was received from the Senate stating that they had passed the salary bill, with sundry amendments—also that they had resolved to postpone till the first Monday of September, the amendment to the Constitution sent to them by the House of Representatives.

[This is the amendment, in lieu of which the amendment agreed to by the two Houses was passed.]

Mr. JOHN C. SMITH, from the Committee of Claims, presented a bill for the relief of Paul Coulon; which was read twice and committed to a Committee of the whole House on Wednesday next.

#### TERRITORY OF LOUISIANA.

The House went into Committee of the Whole on the bill giving effect to the laws of the United States, in the territory ceded by France to the United States.

The amendment of Mr. LATTIMORE, having for object the preservation of a port of entry in the Mississippi Territory, was again taken into consideration.

Mr. LATTIMORE moved that the Committee should rise, to allow further time for obtaining information.

This motion was supported by Messrs. LATTIMORE and SANDFORD; and opposed by Messrs. J. CLAY and J. RANDOLPH; and lost—yeas 48, nays 50.

Messrs. LATTIMORE, GREGG, SANDFORD and GRISWOLD, then spoke in favor of the amendment; and Messrs J. RANDOLPH, S. L. MITCHILL, J. CLAY, EUSTIS, MACON, and VARNUM against it. When the question was taken on it and carried in the negative—yeas 25.

Mr. LYON offered a motion to exempt from duty goods exported from Louisiana, to the ports of the United States, since the twenty-second day of October last.

This motion was opposed by Messrs. J. RANDOLPH and J. CLAY, and rejected without a division.

The Committee then rose and reported the bill with several amendments, which the House immediately considered; and agreed to with other amendments, when the bill was ordered to a third reading on Monday.

#### MONDAY, December 19.

A memorial of the House of Representatives of the Mississippi Territory of the United States,

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*Louisiana Territory—Mail Routes.*

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signed by William Dunbar, their Speaker *pro tempore*, and attested by Richard S. Wheatly, their Clerk, was presented to the House and read, stating certain disadvantages to which the inhabitants of the settlement on the Tombigbee and Alabama rivers have been and are now subjected, in consequence of their remote situation from the other inhabited parts of the said Territory; and praying that a line of separation may be drawn between the settlements on the Mississippi river, and those of Washington district, or that judges, learned in the law, may be appointed to reside within the said district, for the benefit and convenience of the inhabitants thereof.

*Ordered*, That the said memorial be referred to the committee appointed, on the twenty-fifth ultimo, on the petition and memorial of sundry inhabitants of the District of Washington, situate on the Mobile, Tombigbee, and Alabama rivers, in the said Mississippi Territory; to examine and report their opinion thereupon to the House.

#### TERRITORY OF LOUISIANA.

An engrossed bill giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes, was read the third time: Whereupon a motion was made, and the question being put, that the said bill be recommit- ted to the consideration of a Committee of the whole House, it passed in the negative. And then the main question being taken that the said bill do pass, it was resolved in the affirmative—yeas 88, nays 13, as follows:

YEAS—Willis Alston, junior, Nathaniel Alexander, Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, William Findley, James Gillespie, Edwin Gray, Andrew Gregg, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, Joseph Heister, William Hoge, James Holland, David Holmes, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, junior, Henry W. Livingston, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, jun., John Patterson, Samuel D. Purviance, John Randolph, jun., John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, James Stephenson, John Stewart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

YEAS—Simeon Baldwin, Silas Betton, Manasseh

Cutler, Samuel W. Dana, John Davenport, John Dennis, Calvin Goddard, David Hough, Matthew Lyon, Jeremiah Morrow, Gideon Olin, Thomas Plater, and George Tibbits.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned:" Whereupon,

*Ordered*, That the said amendments, together with the bill, be committed to a Committee of the whole House to-morrow.

#### MAIL ROUTES.

The House went into a Committee of the Whole on the following report of the Post Office Committee:

The Committee on the subject of the Post Office and Post Roads, to whom was referred a resolution of the 2d ultimo, directing them to inquire by what means the mail may be conveyed with greater security and dispatch than at present, between the City of Washington and Natchez and New Orleans, report—

That the late cession of Louisiana by France to the United States renders it an object of primary importance to have the nearest and most expeditious mode of communication established between the City of Washington and the city of New Orleans, the capital of that province; not only for the convenience of Government, but to accommodate the citizens of the several commercial towns in the Union.

That at present the mail is conveyed on a circuitous route from this place to Knoxville and Nashville in Tennessee, and from thence through the wilderness by Natchez to New Orleans, a distance of more than 1500 miles.

That, by establishing a post route as nigh on a direct line between those two cities, as the Blue Ridge and Alleghany Mountains will admit of, will not only lessen the distance about 500 miles; but as this route will pass almost the whole way through a country inhabited, either by citizens of the United States or friendly Indians, the mail will be more secure, and the persons employed in transporting it better furnished with the means of subsistence.

The committee flatter themselves that the views of the General Government, in effecting this important object, will be seconded by the governments and citizens of those States through which this road will pass, by laying out, straitening, and improving the same, as soon as the most proper course shall be sufficiently ascertained; but as this has not heretofore been used for conveying the mail between those places, they presume that the best route will be better known after it has been used for this purpose, than it can be at present; and with this view of the subject, they deem it improper at this time to designate intermediate points; they are, therefore, of opinion—

That a post road ought to be established from the City of Washington, on the most direct and convenient route to the Tombigbee settlement in the Mississippi Territory, and from thence to New Orleans.

And further, that a post road ought also to be established from the said Tombigbee settlement to the Natchez. This road will not only afford the inhabitants of that place a direct mode of communication with the seat of the Territorial Government, who at present are destitute of any, but will shorten the distance between this city and Natchez nearly three hundred

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miles. And for the consideration of the House, the committee submit the following resolution

*Resolved*, That a post road ought to be established from the City of Washington, on the most direct and convenient route, to pass through or near the Tuckabatchee settlement to the Tombigbee settlement in the Mississippi Territory, and from thence to New Orleans; and also from the said Tombigbee settlement to Natchez.

Mr. STANFORD moved the insertion of the following words:

"And Carter's Ferry on James river, Cole's Ferry on Stanton, Dansville on Dan river, in Virginia; Salisbury, Beatty's Ford, on Catawba, in North Carolina; Spartanburg, Greenville Courthouse, and Pendleton Courthouse, in South Carolina; and Jackson Courthouse, in Georgia."

His object being to designate the intermediate points of the route between the seat of Government and New Orleans and Natchez.

This motion was supported by Messrs. STANFORD, J. RANDOLPH, EARLY, EARLE, and MACON, on the principle that it was proper that Congress should designate the route, and on the ground that the route contemplated by the amendment would be the fittest.

On the other hand, the motion was opposed by Messrs. THOMAS, SMILIE, HOLLAND, CLAIBORNE, S. L. MITCHILL, and G. W. CAMPBELL, on the ground that a discretionary power should be reposed in the Postmaster General to designate the route; and on the ground that, if Congress should undertake to designate the route, the one fixed by the amendment was not an eligible one.

Mr. DENNIS declared himself in favor of the House exercising the power of designating the route, but was not sufficiently informed to vote on any particular line.

Mr. R. GRISWOLD moved that the Committee of the Whole should rise and ask leave to sit again, with the view that leave should be refused, and the report recommended to the Post Office Committee, in order to obtain from them a detailed report, that would furnish the House with satisfactory information.

This motion was supported by Mr. GREGG, and opposed by Mr. THOMAS, and carried—yeas 70.

The House then refused leave to the Committee of the Whole to sit again—yeas 19, and re-committed the report to the Post Office Committee.

#### TUESDAY, December 20.

Mr. ALSTON presented a memorial from sundry inhabitants of the Indiana Territory, praying a repeal of the sixth article of the ordinance establishing the Indiana Territory, which prohibits slavery in said Territory.

Mr. VARNUM objected to the reference of the memorial on the ground that its prayer was both unconstitutional and unjust.

Mr. ALSTON replied that this remark might be an argument against agreeing to the prayer of the memorial, but would not apply against making the reference, especially as the same subject was already referred to a committee on another petition.

The reference to a committee was carried—yeas 48, nays 34.

Mr. CLAIBORNE moved a resolution for the appointment of a committee to inquire whether any, and, if any, what description of claims against the United States are bound by statutes of limitation, which in reason and justice ought to be provided for by law, with leave to report by bill or otherwise.

Ordered to lie on the table.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, who were directed by a resolution of this House of the ninth ultimo, "to inquire and report by bill, or otherwise, whether a drawback of duties ought not to be allowed on sugar refined in the United States, and exported to foreign ports or places," made a report thereon.

Ordered to lie on the table.

#### ZACHARIAH COX.

Mr. EARLY called for the order of the day on the report of the Committee of the Whole on the petition of Zachariah Cox.

The House took up the report, which is, that the prayer of the petitioner cannot be granted.

Mr. EARLY hoped the report would be disagreed to, in which case he would move the following resolution:

*Resolved*, Although the arrest and confinement of Zachariah Cox, by Winthrop Sargent, Esq. appears to have been illegal and oppressive, yet that the circumstances are not such as to justify the interposition of this House.

Messrs. R. GRISWOLD and SMILIE opposed the adoption of this motion, on the ground that it involved a decision on the character of a public officer on ex-parte evidence; that if Governor Sargent had abused his power, he was a fit subject of impeachment, and that this would be the becoming course to pursue; and that inasmuch as he might be brought before a court of justice, it was highly improper and unjust to impose a stigma on his character, which might operate injuriously to the course of justice.

Messrs. EARLY and J. RANDOLPH advocated the adoption of the motion, on the ground that Governor Sargent appeared, from documents which he had himself transmitted to the Department of State, to have made an illegal and oppressive arrest and confinement of the petitioner, for which act he was, in their opinion, impeachable; but inasmuch as the power of impeachment was a high and solemn one, which ought not to be cheapened by an application to trifling cases; and inasmuch as it was the general opinion of the House that this was a case that did not merit such interposition, it became proper, at the same time, to avoid a decision, that might appear, in a side way, to extuluate Governor Sargent, which might be considered as the effect of confirming the report, that the prayer of the petitioner cannot be granted.

On concurring in the report of the committee, viz: that the prayer of the petitioner cannot be granted, the House divided—yeas 54, nays 26.

This decision of course superseded the motion contemplated to be made by Mr. EARLY, in case the report of the committee should have been disagreed to.



DECEMBER, 1803.

*Salaries of certain Officers.*

H. OF R.

## SALARIES OF OFFICERS.

The House went into Committee of the Whole on the amendments of the Senate to the salary bill. These amendments were:

1. To strike out these words, "as established by the act passed the second of March 1799, and no other."

2. To increase the salary of the Postmaster General from \$3,000 to \$4,000.

3. To increase the salary of the Assistant Postmaster General from \$1,700 to \$2,000.

4. To insert a new section, prohibiting the allowance of any extra compensation, from contingent funds, to officers compensated by fixed salaries.

The Committee disagreed to the three first amendments, and agreed to the last.

The House immediately took up the report of the Committee, and concurred in it.

On a concurrence with the Committee on their agreement, to the last amendment, the yeas and nays were taken—yeas 56, nays 42, as follows:

YEAS—Willis Alston, jr., Simeon Baldwin, David Bard, George Michael Bedinger, Phaniel Bishop, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Martin Chittenden, William Findley, James Gillespie, Edwin Gray, Andrew Gregg, Josiah Hasbrouck, William Hoge, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Henry W. Livingston, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Gideon Olin, John Patterson, John Randolph, jr., John Rea of Pennsylvania, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, John Stewart, Benjamin Tallmadge, David Thomas, John Trigg, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Nathaniel Alexander, Silas Betton, John Campbell, Thomas Claiborne, Joseph Clay, John Clapton, Jacob Crowninshield, John Davenport, John Dawson, John Dennis, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, Calvin Goddard, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Michael Leib, Joseph Lewis, jun., Thomas Lowndes, Matthew Lyon, Nahum Mitchell, Thomas Moore, Thomas Plater, John Rhea of Tennessee, Tompson J. Skinner, John C. Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, George Tibbits, Abram Trigg, and Lemuel Williams.

WEDNESDAY, December 21.

The report received yesterday, from the Committee of Commerce and Manufactures, who were directed by a resolution of this House of the 5th ultimo, "to inquire and report, by bill or otherwise, whether a drawback of duties ought not to be allowed on sugar refined in the United States and exported to foreign ports or places," was read, and ordered to be referred to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of

the Whole on the bill for the relief of Paul Coulon. The bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

*Resolved*, That the Secretary of the Treasury be directed to report to this House an account of the money received for the support of sick and disabled seamen; designating particularly the sums collected and expended at each port.

On motion of Mr. CLAIBORNE, it was

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what description of claims against the United States are barred by the statutes of limitation, which, in reason and justice, ought to be provided for by law; and that they have leave to report by bill or otherwise.

*Ordered*, That Mr. CLAIBORNE, Mr. TENNEY, Mr. VARNUM, Mr. STANTON, Mr. TALLMADGE, Mr. CHITTENDEN, Mr. PATTERSON, Mr. SMILIE, Mr. NICHOLSON, Mr. SANDFORD, Mr. WINSTON, Mr. DICKSON, Mr. CASEY, Mr. MERIWETHER, Mr. MORROW, Mr. LATTIMORE, and Mr. GRAY, be appointed a committee pursuant to the said resolution.

On motion, it was

*Ordered*, That Mr. PURVIANCE and Mr. VERPLANCK be added to the committee appointed, on the eighteenth of October last, "to inquire, and report, by bill or otherwise, whether any further provisions are necessary for the more effectual protection of American seamen."

On motion, it was

*Resolved*, That the committee appointed "to inquire and report whether any further provisions are necessary for the more effectual protection of American seamen," do inquire into the expediency of granting protections to such American seamen, citizens of the United States, as are free persons of color; and that they report by bill or otherwise.

Mr. DENNIS observed that he was one of those who had long been of the opinion that the existing duties paid on certain imported articles ought to be either taken off or reduced. He considered the situation of the country such as would now justify a reduction. He, therefore, moved a resolution, declaring it expedient to reduce the duty on brown sugar to one cent per pound, and enjoining it on the Committee of Ways and Means to bring in a bill for that purpose.

*Ordered*, To lie on the table.

The House went into a Committee of the Whole on the bill to incorporate the Directors of the Columbian Library Company.

Mr. J. CLAY moved an amendment to limit the term of incorporation to fourteen years. Motion lost—ayes 25.

After making a few verbal amendments, the Committee rose and reported the bill, and the House ordered it to be engrossed for a third reading to-morrow.

Mr. STANFORD moved an instruction to the Post Office Committee, to inquire into the most convenient route, designating the same, for the mail from Washington to New Orleans.

Agreed to without a division.

H. OF R.

*Refined Sugars.*

DECEMBER, 1803.

THURSDAY, December 22.

An engrossed bill for the relief of Paul Coulon was read the third time, and passed.

An engrossed bill to incorporate the Columbian Library Company, was read the third time, and passed.

Mr. JOHN RANDOLPH, jr., from the Committee of Ways and Means, presented a bill further to amend the act, entitled "An act to lay and collect a direct tax within the United States;" which was read twice, and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the report of the committee appointed on the fifth instant, to whom was referred a Message from the President of the United States, enclosing sundry papers relative to the amicable adjustment of differences between the United States and the Emperor of Morocco; and, after some time spent therein, the Committee reported their agreement to the resolutions contained therein: which were severally twice read, and agreed to by the House, as follows:

*Resolved*, That it is inexpedient for the United States to pursue further hostilities against the Emperor of Morocco, unless they should be rendered necessary by future aggressions.

*Resolved*, That provision ought to be made, by law, to indemnify the captors of such armed vessels belonging to the Emperor of Morocco, as have been captured and surrendered to the said Power, for the prize-money to which they are entitled.

*Ordered*, That a bill or bills be brought in, pursuant to the second resolution; and that the Committee of Ways and Means do prepare and bring in the same.

A message from the Senate informed the House that the Senate insist on their first, second, third, and fourth amendments, disagreed to by the House, to the bill, entitled "An act fixing the salaries of certain officers therein mentioned;" and desire a conference with this House on the subject-matter of the said amendments, to which conference the Senate have appointed managers on their part.

The House went into Committee of the Whole on the report of the Committee of Claims, in the case of the Danish brigantine *Henrique*.

After a debate which occupied the day, the Committee rose without coming to a decision, and the report of the Committee of Claims was recommitted.

FRIDAY, December 23.

The House proceeded to reconsider the first, second, third, and fourth amendments of the Senate, disagreed to by this House, and insisted on by the Senate, to the bill, entitled "An act fixing the salaries of certain officers therein mentioned;" whereupon,

*Resolved*, That this House doth insist on their disagreement to the said amendments.

*Resolved*, That this House doth agree to the conference desired by the Senate on the subject-matter of the said amendments; and that Mr. JOHN RANDOLPH, jr., Mr. ROGER GRISWOLD, and

Mr. ALSTON, be appointed managers at the said conference, on the part of this House.

Mr. JOHN RANDOLPH, jr., reported, from the Committee of Ways and Means, that the committee had taken into consideration the contingent expenses of this House, and agreed to a report thereon; which was read, and ordered to lie on the table.

## REFINED SUGAR.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means on the memorial of sundry sugar refiners of Pennsylvania, and, after some time spent therein, the Committee rose, and reported to the House their disagreement to the same.

The House then proceeded to consider the said report; and the resolution contained therein being twice read, in the words following, to wit:

*Resolved*, That no internal duty shall be collected on sugars removed from the refinery since the thirtieth day of June, one thousand eight hundred and two, any law to the contrary notwithstanding.

The question was taken that the House do concur with the Committee of the whole House in their disagreement to the same, and resolved in the affirmative—yeas 52, nays 37, as follows:

YEAS—Willis Alston, jr., Nathaniel Alexander, Geo. Michael Bedinger, Silas Betton, Phanuel Bishop, Wm. Blackledge, John Boyle, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Richard Cutts, John Dawson, James Elliot, William Eustis, James Gillespie, Edwin Gray, Samuel Hammond, Seth Hastings, William Hoge, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Joseph Lucas, jun., John B. C. Lucas, Matthew Lyon, Nahum Mitchell, Thomas Moore, Thomas Newton, jun., John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Cotton Smith, John Smith of New York, Richard Stanford, Joseph Stanton, William Stedman, John Stewart, Abram Trigg, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Simeon Baldwin, Robert Brown, Joseph Bryan, John Campbell, Thomas Claiborne, Joseph Clay, Manasseh Cutler, Samuel Dana, Thomas Dwight, Peter Early, William Findley, Calvin Goddard, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Benjamin Huger, Thomas Lowndes, Andrew McCord, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Joseph H. Nicholson, Thomas Plater, Samuel D. Purviance, John Randolph, jun., John Smilie, Samuel Taggart, Benjamin Tallmadge, Samuel Tenney, David Thomas, George Tibbits, John Trigg, Isaac Van Horne, John Whitehill, and Marmaduke Williams.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to authorize the sale of the frigate *General Greene*, and a further addition to the naval armament of the United States."

The Committee reported the bill without amendment.

The House then proceeded to consider the said bill; and, after some progress therein, adjourned.

DECEMBER, 1803.

Proceedings.

H. OF R.

MONDAY, December 26.

Mr. S. L. MITCHILL, from the Committee of Commerce and Manufactures, presented a bill to extend the time for making the oath required in cases of goods, wares, and merchandise, exported and entitled to drawback, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage;" which was read twice and committed to a Committee of the whole House on Monday next.

Mr. VAN HORNE, from the committee appointed, on the fifth instant, "to inquire into the expediency of granting further time to the proprietors of military land warrants to obtain and locate the same," and to whom were referred sundry petitions on the same subject, made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Monday next.

The House resumed the consideration of the bill sent from the Senate, entitled "An act to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States;" whereupon,

*Ordered*, That the said bill be recommitted to a Committee of the whole House on Thursday next.

The House resolved itself into a Committee of the Whole on the report of the committee appointed, on the twenty-ninth of October last, "to inquire into the expediency of reprinting the laws of the United States, the Journals of the House of Representatives, and other public documents;" and, after some time spent therein, the Committee rose and reported several resolutions thereupon; which were severally twice read, and agreed to by the House, as follow:

1. *Resolved*, That the Secretary for the Department of State shall, after the end of the next session of Congress, cause to be printed and collated, at the public expense, a complete edition of the laws of the United States, to consist of ten thousand copies, comprising the Constitution, public acts in force, and treaties, together with marginal abstracts, table of contents, and indexes; to be distributed as Congress shall direct.

2. *Resolved*, That it is inexpedient, at present, to reprint the Journals of the House.

3. *Resolved*, That the further consideration of reprinting the other public documents be postponed until the next session of Congress.

*Ordered*, That a bill or bills be brought in pursuant to the first resolution, and that Mr. S. L. MITCHILL, Mr. JONES, and Mr. HUGER, do prepare and bring in the same.

TUESDAY, December 27.

Mr. S. L. MITCHILL, from the Committee of Commerce and Manufactures, to whom was referred, on the twentieth and twenty-second instant, the memorials of sundry merchants of the district of Boston and Charlestown, and of the district of Salem and Beverly, in the State of Massachusetts, made a report thereon; which was twice read, and agreed to by the House, as follows:

"The petitioners pray for permission to transport goods, wares, and merchandise, from the one of the aforesaid districts to the other, by land conveyance, to avoid the hazard and delay of transporting them coastwise, particularly during the Winter season, pursuant to the provisions contained in the twenty-ninth section of the collection law.

"The committee are of opinion that the prayer of the petition is reasonable, and ought to be granted; they have prepared a bill for that purpose, which they ask leave to present to the House."

Mr. S. L. MITCHILL, from the same committee, presented a bill to allow drawbacks of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned; which was read twice, and committed to a Committee of the whole House on Tuesday next.

The House proceeded to consider the report of the Committee of Ways and Means, of the twenty-third instant, relative to the contingent expenses of this House; and the resolution contained therein being twice read, was agreed to by the House, as follows:

*Resolved*, That a committee be appointed, to consist of three members, to be styled "The Committee of Accounts," whose duty it shall be to superintend and control the expenditure of the contingent fund of the House of Representatives, and to admit and settle all accounts which may be charged thereon.

*Ordered*, That Mr. EARLY, Mr. BLACKLEDGE and Mr. TALLMADGE, be appointed a committee, pursuant to the said resolution.

A petition of sundry free negroes and mulattoes was presented to the House and read, stating that the petitioners have been regularly emancipated from slavery, under the authority of a statute of the Commonwealth of Virginia; and praying that the same privilege may be extended to them of taking the oath of affirmation required by the acts of Congress for the enrolling and licensing of ships or vessels employed in the coasting trade and fisheries, as is granted by the provisions of the said acts to negroes and mulattoes born free within the United States.

*Ordered*, That the said petition be referred to the Committee of Commerce and Manufactures.

Mr. NICHOLSON, from the committee appointed, on the twentieth of October last, to prepare and report articles of impeachment against John Pickering, district judge of the district of New Hampshire, who was impeached by this House, during the last session, of high crimes and misdemeanors, made a report; which was read, and ordered to be referred to a Committee of the whole House on Thursday next.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That it is expedient so to alter and amend the several acts relative to the establishment and regulation of marine hospitals within the United States, as to exempt from the operation of the same such sailors and boatmen as are exclusively employed in the navigation of the Bay of Chesapeake, and the waters thereof.

*Ordered*, That the said motion be referred to a Committee of the whole House on Monday next.

H. OF R.

Addition to the Navy.

DECEMBER, 1803.

WEDNESDAY, December 28.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, of the twenty-first instant, on the memorial of John Coles; and, after some time spent therein, the Committee rose and reported a resolution thereupon; which was twice read, and agreed to by the House, as follows:

*Resolved*, That the proper accounting officers liquidate and adjust the claim of John Coles for the detention of the ship *Grand Turk*, at Gibraltar, by direction of the Consul at that port, from the tenth day of May to the fourth day of July, Anno Domini one thousand eight hundred and one, inclusive; and that he be allowed demurrage, at the rate stipulated in the charter-party, together with the interest thereon.

*Ordered*, That a bill or bills be brought in pursuant to the said resolution, and that the Committee of Claims do prepare and bring in the same.

A memorial of Alexander Moultrie, of the State of South Carolina, in behalf of himself and others, claimants of compensation under the late cession and convention between the State of Georgia and the United States, and the acts lately passed by Congress thereon, as purchasers of lands in the Mississippi Territory, in the year one thousand seven hundred and eighty-nine, from the said State of Georgia, was presented to the House and read, praying that Congress will adopt such suitable mode as in their wisdom may be deemed equitable and proper, for the settlement and allowance of the aforesaid claims of the memorialist and his associates.

Also, a memorial of the Virginia Yazoo Company, signed for and on behalf of the said company by William Cowan, their agent, to the like effect.

*Ordered*, That the said memorials be referred to Mr. NICHOLSON, Mr. MORROW, Mr. DWIGHT, Mr. BROWN, and Mr. BRYAN, to examine and report their opinion thereupon to the House.

Mr. J. RANDOLPH, jun., from the Committee of Ways and Means, presented a bill making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four; which was read twice and committed to a Committee of the whole House on Friday next.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That the Secretary of War be directed to issue a land warrant to George L. Davidson, son of Brigadier General Davidson, of North Carolina, who fell in defence of his country in the Revolutionary war with Great Britain, for two thousand acres; which shall be surveyed and patented in conformity to the laws regulating the grants of land appropriated for military services;

*Ordered*, That the said motion be referred to the Committee of the whole House to whom was committed, on the twenty-sixth instant, the report of the committee appointed "to inquire into the expediency of granting further time to the proprietors of military land warrants to obtain and locate the same."

The House resolved itself into a Committee of the Whole on the report of the committee, of the second instant, who were directed by a resolution of this House, of the twenty-fourth of November last, "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States;" and, after some time spent therein, the Committee rose and reported progress.

The SPEAKER laid before the House a letter from the Secretary of the Navy, accompanying a report of the Commissioners of the fund for navy pensions; which were read, and ordered to lie on the table.

Mr. J. C. SMITH, from the Committee of Claims, presented a bill for the relief of John Coles; which was read twice and committed to a Committee of the whole House to-morrow.

THURSDAY, December 29.

Mr. BOYLE, from the committee appointed, on the fifteenth instant, "to inquire into the expediency of vesting the powers usually exercised by a court of equity in the judges of the United States within the Indiana and other Territories; and, also, to inquire into the expediency of allowing writs of error and appeals from the judgments and decisions of the said judges, to the Supreme Court of the United States;" made a report thereon; which was read, and ordered to be referred to a Committee of the whole House on Wednesday next.

The House resolved itself into a Committee of the Whole on the bill for the relief of John Coles. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-day.

A message from the Senate informed the House that the Senate adhere to their first, second, third, and fourth amendments insisted on by the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned; to their disagreement to which this House hath insisted.

## ADDITION TO THE NAVY.

The House went into Committee of the Whole on the bill, received from the Senate, to sell the General Greene, and to make an addition to the Navy.

Mr. EUSTIS moved an additional section, allowing rations to half-pay officers, subject to Navy orders, provided they are not employed on board of merchant vessels, or otherwise engaged in transacting their personal affairs.

This motion was supported by Messrs. EUSTIS, NICHOLSON and CLAY; and opposed by Messrs. MACON, SMILIE, GREGG, and CLAIBORNE; and on the question being taken, was agreed to—yeas 52, nays 44.

Mr. MACON moved to strike out the second section of the bill, which authorizes the President, in case the public exigency shall require it, to cause to be built or purchased two small vessels of war, appropriating therefor \$50,000.

This motion was supported by Messrs. MACON,

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SMILIE, and HOLLAND; and opposed by Messrs. S. L. MITCHILL, NICHOLSON and EUSTIS.

Mr. GREGG moved that the Committee should rise, in order that leave should be refused them to sit again, and that the bill should be committed to the committee appointed on naval affairs, for the purpose of obtaining information.

The motion for the rising of the Committee was carried—yeas 52 nays 42. The House then gave the Committee leave to sit again—yeas 48, nays 45.

#### SALARIES OF OFFICERS.

Mr. JOHN RANDOLPH, jun., from the managers appointed the twenty-third instant, on the part of this House, to attend a conference with the Senate, on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act fixing the salaries of certain officers therein mentioned," made a report thereon.

The House then proceeded to consider the said report, together with the message this day received from the Senate; and the same being twice read the question was taken, that the House do agree to the resolution contained in the said report of the conferees appointed on the part of this House, in the words following, to wit:

*Resolved*, That this House adhere to their disagreement to the first, second, third, and fourth amendments proposed by the Senate to the bill, entitled "An act fixing the salaries of certain officers therein mentioned."

And resolved in the affirmative—yeas 71, nays 22, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Simeon Baldwin, George Michael Bedinger, Silas Betton, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Joseph Clay, Jacob Crowninshield, Manasseh Cutler, John Davenport, John Dennis, Thomas Dwight, John B. Earle, Peter Early, John W. Eppes, William Eustis, James Gillespie, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Josiah Hasbrouck, Seth Hastings, William Hoge, David Holmes, David Hough, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, John B. C. Lucas, Andrew McCord, William McCreery, Nahum Mitchell, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Thomas Newton, jun., Gideon Olin, Thomas Plater, John Randolph, jun., John Rea of Pennsylvania, Thomas Sammons, John Cotton Smith, Richard Stanford, Joseph Stanton, William Stedman, Samuel Tenney, Samuel Thatcher, George Tibbitts, Abram Trigg, John Trigg, Isaac Van Horne, Matthew Walton, Lemuel Williams, Marmaduke Williams, and Joseph Winston.

NAYS—David Bard, Thomas Claiborne, Richard Cutts, James Elliot, William Findley, Edwin Gray, Benjamin Huger, Matthew Lyon, Beriah Palmer, John Patterson, Samuel D. Purviance, John Rhea of Tennessee, Erastus Root, Thomas Sandford, John Smilie, John, Smith of New York, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Richard Winn, and Thomas Wynns.

FRIDAY, December 30.

Three other members, to wit: EBENEZER ELMER, JOHN SLOAN, and HENRY SOUTHARD, from

New Jersey, appeared, produced their credentials, were qualified, and took their seats in the House.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That no person or persons claiming, under an act of Georgia, any part of the territory lately ceded by Georgia to the United States, shall be entitled to receive compensation from the Government, for any real or pretended loss they may have sustained in consequence of that cession, if they have, subsequent to the acts under which they claim, withdrawn from the treasury of Georgia any moneys deposited as a consideration. And all person or persons who have derived a title to any part of the said territory, from any grantee, grantees, or other persons, so situated as above, shall equally be excluded from any compensation whatever:

*Ordered* That the said motion be referred to the Committee of the whole House to whom was committed, on the second instant, a report of the committee appointed to inquire into the expediency of amending the several acts for the sale of the public lands of the United States.

Mr. LUCAS, from the committee to whom was committed, on the eighth instant, the bill sent from the Senate, entitled "An act to divide the Indiana Territory into two separate Governments," reported that the committee had had the said bill under consideration, and agreed to a report thereupon; which he delivered in at the Clerk's table, where the same was read, and, together with the bill, ordered to be referred to a Committee of the whole House on Tuesday next.

Mr. JOHN RANDOLPH, jun., from the Committee of Ways and Means, presented, according to order, a bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and four; which was read twice and committed to a Committee of the whole House on Monday next.

An engrossed bill for the relief of John Coles was read the third time and passed.

#### IMPEACHMENT OF JUDGE PICKERING.

The House resolved itself into a Committee of the Whole on the report of the committee, of the twenty-seventh instant, appointed on the twentieth of October last, to prepare and report articles of impeachment against John Pickering, district judge of the district of New Hampshire, who was impeached by this House, during the last session, of high crimes and misdemeanors.

Mr. TENNEY called for the reading of several depositions; which, being read, Mr. T. said he had called for their reading to show that Mr. Pickering had sustained a respectable character, and that his recent conduct had arisen from insanity. For this reason, he thought the articles of impeachment should not be agreed to by the House.

Mr. NICHOLSON replied, that, at the last session, the House had determined that they would impeach John Pickering. It became therefore their duty at this time to furnish the Senate with the articles. Whether John Pickering was insane or not, it was not for him to decide; but he was clearly of the opinion that the insanity stated by the gentleman from New Hampshire proceeded from con-

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stant and habitual intoxication. This information he had obtained from the most respectable sources. After the last session, Mr. N. said, when he perceived the charges made in some public prints against the House of Representatives for impeaching a man laboring under insanity, he had made it his business to inquire into this fact; in consequence of which, he had received information by letter from several respectable men in New Hampshire, stating that the Judge was under the influence of habitual intoxication. It was also stated, in the deposition of the marshal, that the last time the Judge was on the bench, he went directly from a grog-shop, and was in a state of intoxication.

The report was agreed to, without a division.

On motion of Mr. NICHOLSON, the articles were ordered to be enrolled, in correspondence with the practice of the House.

Also, on motion of Mr. NICHOLSON,

*Ordered*, That eleven managers be appointed on the part of this House.

Mr. JACKSON moved that the managers should be appointed by the Speaker.

The motion was supported by Messrs. SMILIE, FINDLEY, and THATCHER; and opposed by Messrs. DENNIS, MITCHILL, and GREGG. It was negatived.

It was then moved that the appointment should be made by ballot.

This motion was supported by Messrs. R. GRISWOLD, S. L. MITCHILL, GREGG, ELLIOT, HOLLAND, G. W. CAMPBELL, DENNIS, SKINNER, BEDINGER, and SANDFORD; and opposed by Messrs. SMILIE, NICHOLSON, and ALSTON, who advocated an appointment by votes given *viva voce*.

The question being put, it was, without a division, resolved that the appointment should be by ballot. The first ballot was postponed till Monday.

MONDAY, January 2, 1804.

Two other members, to wit: ADAM BOYD and JAMES MOTT, from New Jersey, appeared, produced their credentials, were qualified, and took their seats in the House.

A memorial and petition of William Henry Harrison, Governor of Indiana Territory of the United States, was presented to the House and read, stating that much inconvenience has arisen, and does daily arise, to the citizens, from the want of money in the Territorial treasury to answer the exigencies of the Government; and praying that a law may pass authorizing the requiring of the Superintendent of Indian Affairs, or other persons employed to issue licenses to Indian traders within the Indiana Territory, to receive for each license issued such a sum, for the use of the said Territory, as in the wisdom of Congress may be deemed reasonable and proper.

*Ordered*, That the said memorial and petition be referred to Mr. EPPES, Mr. ELMER, and Mr. LIVINGSTON, with leave to report thereon by bill, or bills, or otherwise.

Mr. S. L. MITCHILL, from the committee appointed on the twenty-sixth ultimo, presented a

bill for reprinting the laws of the United States, and for the more extensive distribution of the same; which was read, and committed to a Committee of the whole House on Thursday next.

#### IMPEACHMENT OF JUDGE PICKERING.

The enrolled articles of impeachment against John Pickering were read and signed by the Speaker.

The House proceeded to elect by ballot eleven managers. Mr. NICHOLSON and Mr. R. GRISWOLD acted as tellers. One hundred and nine ballots were given—fifty-five making a majority.

For Mr. Nicholson, 104; for Mr. Early, 89; for Mr. Rodney, 81; for Mr. Eustis, 71; for Mr. R. Griswold, 70; for Mr. J. Randolph, 70; for Mr. S. L. Mitchell, 61; for Mr. G. W. Campbell, 60; for Mr. Blackledge, 57; for Mr. Boyle, 46; for Mr. J. Clay, 37; for Mr. Newton, 35; for Mr. Varnum, 30; for Mr. Elliot, 25; for Mr. Holland, 21; for Mr. Smilie, 19; for Mr. Huger, 14; for Mr. Thatcher, 13—with other scattered votes. Of which gentlemen, the first nine, having a majority, were declared to be elected.

The House then proceeded to ballot for the two remaining managers—Mr. R. GRISWOLD and Mr. J. RANDOLPH acting as tellers. Eighty-eight votes were given—forty-five constituting a majority.

For Mr. Boyle, 72; for Mr. J. Clay, 59; for Mr. Varnum, 12; for Mr. Newton, 12; for Mr. Elliot, 7—with other scattered votes. The two first, having a majority, were declared to be elected.

Mr. GRISWOLD begged to be excused from serving as a manager, and stated as a reason that he was already on several committees; and he was excused accordingly.

The House then proceeded to a third ballot. Seventy-nine votes were given—forty constituting a majority.

For Mr. Newton, 26; for Mr. Elliot, 19; for Mr. Varnum, 19; for Mr. Thatcher, 12; for Mr. Dana, 2; for Mr. Findley, 1. No choice.

The House then proceeded to a fourth ballot. Eighty ballots were given—forty-one constituting a majority.

For Mr. Newton, 49; for Mr. Elliot, 14; for Mr. Mott, 14. Mr. Newton, having a majority, was declared to be elected.

[In the above ballots, several votes given for Messrs. Randolph, Mitchell, Campbell, and Clay, were not counted, owing to there being other gentlemen of similar names in the House.]

The eleven managers elected are, therefore, as follows: Mr. Nicholson, Mr. Early, Mr. Rodney, Mr. J. Randolph, Mr. Eustis, Mr. S. L. Mitchell, Mr. G. W. Campbell, Mr. Blackledge, Mr. Boyle, Mr. J. Clay, and Mr. Newton.

A motion was made and seconded that the House do now adjourn; and, on the question thereupon, it was resolved in the affirmative—yeas 53, nays 29, as follows:

YEAS—Nathaniel Alexander, George M. Bedinger, Silas Betton, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Chamberlin, Martin Chittenden, Joseph Clay, John Clopton, Samuel W. Dana, John Davenport, Thomas Dwight,

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John B. Earle, Peter Early, William Findley, Roger Griswold, Samuel Hammond, Josiah Hasbrouck, Seth Hastings, David Hough, Walter Jones, William Kennedy, Nehemiah Knight, Henry W. Livingston, William McCreery, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, James Mott, Gideon Olin, Beriah Palmer, Thomas Plater, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, Tompson J. Skinner, John Cotton Smith, John Smith of N. York, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Philip R. Thompson, Philip Van Cortlandt, Isaac Van Home, Matthew Walton, and Thomas Wynns.

**NEWS**—Willis Alston, jr., William Butler, Levi Casey, Thomas Claiborne, Manasseh Cutler, James Elliot, Ebenezer Elmer, James Gillespie, Gaylord Griswold, Matthew Lyon, Andrew McCord, John Patterson, John Randolph, jr., Thomas M. Randolph, Erastus Root, Ebenezer Seaver, James Sloan, Henry Southard, Samuel Tenney, Samuel Thatcher, Geo. Tibbits, Abram Trigg, John Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, John Whitehill, Marmaduke Williams, Richard Winn, and Joseph Winston.

### TUESDAY, January 3.

A Message was received from the President of the United States, transmitting an annual account of the fund established for defraying the contingent charges of the Government. The Message and account were ordered to lie on the table.

The **SPEAKER** laid before the House sundry depositions and other papers transmitted from the town of Fayetteville, in the county of Cumberland, and State of North Carolina, respecting a contested election of Samuel D. Purviance, one of the members returned to serve in this House, for the said State; which were referred to the Committee of Elections.

**Resolved**, That the articles agreed to by this House, to be exhibited in the name of themselves, and of all the people of the United States, against John Pickering, in maintenance of their impeachment against him for high crimes and misdemeanors, be carried to the Senate by the managers appointed to conduct the said impeachment.

**Ordered**, That a message be sent to the Senate, to inform them that this House have appointed managers, on their part, to conduct the impeachment against John Pickering, and have directed the said managers to carry to the Senate the articles agreed upon by the House, to be exhibited in maintenance of their impeachment against the said John Pickering; and that the Clerk of this House do go with the said message.

The House resolved itself into a Committee of the Whole, on the bill making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four; and, after some time spent therein, the bill was reported with several amendments, which were severally twice read, and agreed to by the House.

**Ordered**, That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

On a motion made and seconded that the House do come to the following resolution:

**Resolved**, That provision ought to be made by law to authorize the Secretary of War to frank all letters, returns, and other papers on public service, transmitted from the office of the Paymaster and Inspector of the Army; and directing that all such letters, returns, and papers, transmitted to the offices of the Inspector and Paymaster shall be addressed to the War Department:

**Ordered**, That the said motion be referred to the Committee appointed, on the eighteenth of October last, to inquire whether any, and what, amendments are necessary to be made in the acts establishing a post office and post roads within the United States.

A petition of sundry freeholders of the counties of Knox, St. Clair, and Randolph, in the Indiana Territory of the United States, was presented to the House and read, praying the confirmation of certain donation lands granted by a former Congress, and submitting certain propositions to the consideration of Congress, relative to the location and settlement of lands of the United States within the said Territory, and to other objects therein specified, which they pray may be adopted by Congress, for the convenience and benefit of the petitioners, and other inhabitants within the said Indiana Territory.—**Referred**.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was recommended, on the twenty-second ultimo, their report on a motion relative to a provision for the relief of the owners of the Danish brigantine Henrick, together with sundry accompanying documents, made a supplementary report thereon; which was read, and referred to a Committee of the whole House on Thursday next.

On motion of Mr. LEIB, it was

**Resolved**, That the Secretary of the Navy do report to this House a statement of all the moneys advanced for the pay, clothing, subsistence, and contingencies, of the Corps of Marines, from the time of the organization and establishment of that corps to the close of the last year; exhibiting the dates of the advances, and to whom made; also, an account stating, generally, under each head of expenditure aforesaid, when, and by whom, and what amount of money has been accounted for; and showing the balance, if any, now in advance and not accounted for.

Mr. HUGER, from the committee to whom was referred, on the fifteenth of November last, the report of a select committee, made at the last session of Congress, on the subject of the fisheries of the United States, with instructions to inquire and report whether any, and if any, what measures are necessary for the encouragement of the whale and cod fisheries, made a report thereon; which was read, and referred to a Committee of the whole House on Monday next.

Mr. KENNEDY called up his resolution, prescribing that the sums received in the ports of the United States, for the relief and maintenance of sick and disabled seamen, be expended in the districts wherein they are collected, and that the surplus be placed for certain purposes under the direction



of the President.—Referred to a Committee of the Whole on Monday.

Mr. J. CLAY observed, that considerable injury had accrued to the United States from the existing provisions of the revenue laws in cases wherein they were infringed. He therefore moved the following resolution :

*Resolved*, That persons guilty of crimes arising under the revenue laws of the United States, or incurring fines or forfeitures by breaches of the said laws, may be prosecuted, tried, and punished, at any time within five years after the time of committing the offence or incurring the fine or forfeiture ; any provision of law to the contrary notwithstanding :

Referred to the Committee of Ways and Means.

The House went into a Committee of the Whole, on the bill to allow a drawback of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned.

The Committee, after some discussion of the bill, rose, and obtained leave to sit again.

On motion, it was

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing the Courts of the United States to appoint Commissioners to administer oaths to appraisers ; to take the depositions of witnesses out of Court ; and to enforce the attendance of such witnesses as may be summoned to appear before the Commissioners so to be appointed.

*Ordered*, That Mr. NICHOLAS, Mr. ROGER GRISWOLD, and Mr. THOMPSON, be appointed a committee, pursuant to the said resolution.

#### LIGHT-HOUSE DUTIES.

Mr. MITCHILL observed, that there had been some conversation in the House during the last session, concerning the sums of money paid by our merchants on foreign voyages. He wished to renew that subject, as well worthy of the attention of Government.

Foreign nations levy money upon our vessels, which frequent their ports, for the purpose of supporting their light-houses. The sums paid by our merchants in compliance with these exactions are very considerable. The contribution which strangers are thus obliged to make, constitutes a fund, that goes a great way towards defraying the expense of those establishments, to the great relief of their own subjects.

The average amount of light-money paid by every vessel that enters a British port, is about four pence sterling the ton, for every light she may have passed inwards, or that she may be expected to pass outwards. Calculating by this rule an American ship of two hundred and eighty-four tons, entering the port of London, is charged with duties for the maintenance of the following lights, all along up the British channel, to wit : Scilly, Longships, Lizard, Eddystone, Portland, Caskets, Needles, Owers, Dungenness, Foreland, Goodwin, and the Nore. They amount to thirty-four pounds sterling, and the stamped paper for the receipt four pence more. Besides this, the duties of the Trinity House, for such a ship, amount to nine pounds, seven shilling and eight pence. In addi-

tion to which there is demanded and paid, by virtue of an act of George III. for the maintenance and improvement of the harbor of Ramsgate, seven pounds and two shillings. So that the amount of these impositions for light-money and Ramsgate harbor money, on a ship under three hundred tons, for a single voyage to London, amounts to fifty pounds and ten shillings sterling, which is equal to two hundred and twenty-two dollars, independent of her tonnage, duties on merchandise, pilotage, and other expenses.

An American vessel entering the harbor of Hull, the lights are charged as before, viz : Scilly, Longships, Lizard, Eddystone, Portland, Caskets, Needles, Owers, Dungenness, Forelands, and Goodwin ; and to these are added the lights on the Eastern coast of England, such as Sunk, Harwick, Gatt, Lowstoft, Harbro, Winterton, Oxford, Shawl, Dudgeon, Faulness, and the Spurn. The amount of these demands for light-money on an American ship of two hundred and forty-five tons is thirty-seven pounds and six shillings sterling. At Hull, the collector enforces payment of Ramsgate harbor duties to the amount of £6 2s. 6d., and of Dover harbor dues to the amount of £3 1s. 3d. The demand for supporting lights, few of which perhaps were seen on the passage, and for improving harbors which were not entered by the ship, amount to forty-six pounds nine shillings and nine pence sterling on a burthen less than two hundred and fifty tons. An amount of demand exceeding two hundred and four dollars.

An American ship goes to Liverpool, she is charged for the light up St. George's Channel. A ship of three hundred and fourteen tons is made to pay for supporting the lights at Milford, that called the Smalls, and another known by the name of Skerries. These several demands, with the price of stamps, come to £15 14s. 2d. sterling on a vessel of that burthen for one voyage, or more than sixty-three dollars for light-money alone. For each of these three light-houses the charge is exactly four pence sterling the ton.

Light-houses have been established by the Government of the United States on many parts of our extensive coast. Many parts of it are admirably illuminated. And the whole expense of these valuable establishments is defrayed from the Treasury out of the ordinary income. Foreigners who visit our ports participate the security and advantage of these guides to mariners, as fully as our own citizens ; but they pay nothing for this privilege of directing themselves by our lights. Foreign nations have acknowledged the principle that duties ought to be collected from their commercial visitors, for supporting light-houses, and they compel our merchants to pay them. It is a correct principle of distributive justice, that we should cause our commercial visitors to pay something also for the establishment and improvement of our light-houses. A duty of tonnage, for this express purpose, could easily be laid and collected from foreign vessels, and would add materially to our means of keeping them in good repair and attendance. A sum for example, of six or seven cents per ton upon every foreign vessel for every

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light-house she shall have passed, will make a valuable fund for the humane and excellent institution of light-houses. To the intent that this interesting subject may be investigated and that our Government may avail itself of its own proper rights and resources, I move the following resolution:

"That the Committee of Commerce and Manufactures be directed to inquire into the expediency of laying and collecting a tonnage duty on foreign ships and vessels, entering the ports and harbors of the United States, for an equivalent for the advantages which such ships and vessels derive from the light-houses they pass, inwards and outwards."

WEDNESDAY, January 4.

A message from the Senate informed the House that, the Senate will, at twelve o'clock this day, be ready to receive articles of impeachment against John Pickering, judge of the district court of the United States for the district of New Hampshire, to be presented by the managers appointed by this House.

An engrossed bill making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four, was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and four; and, after some time spent therein, the bill was reported with several amendments, which were twice read, and agreed to by the House.

*Ordered,* That the said bill, with the amendments, be engrossed, and read the third time tomorrow.

The House proceeded to consider a motion of the third instant, relative to "the expediency of laying and collecting a tonnage duty on foreign ships and vessels entering the ports and harbors of the United States, as an equivalent for the advantages such ships and vessels derive from the light-houses they pass, inwards and outwards;" and the said motion being twice read and amended at the Clerk's table, was agreed to by the House, as follows:

*Resolved,* That the Committee of Commerce and Manufactures be directed to inquire into the expediency of laying and collecting a tonnage duty on ships and vessels entering the ports and harbors of the United States, as an equivalent for the advantages such ships and vessels derive from the light-houses they pass, inwards and outward; and report their opinion thereon by bill, or otherwise.

The House resolved itself into a Committee of the Whole on the bill to extend the time making the oath required in cases of goods, wares, and merchandise, exported and entitled to drawbacks, and therein to amend the act, entitled "An act to regulate the collection of imports and tonnage;" and, after some time spent therein, the bill was reported with an amendment, which was twice read, and agreed to by the House.

*Ordered,* That the further consideration of the said bill be postponed until Monday next.

Mr. NICHOLSON, from the managers appointed  
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on the part of this House, to conduct the impeachment against John Pickering, judge of the district court of the United States for the district of New Hampshire, reported that the managers did, this day, carry to the Senate the articles of impeachment agreed to by this House, on the thirtieth ultimo; and the said managers were informed by the Senate that their House would take proper measures relative to the said impeachment, of which this House should be duly notified.

Mr. G. W. CAMPBELL offered a resolution for the appointment of a committee to inquire whether any, and if any what, alterations are necessary to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontier.

*Ordered* to lie on the table.

#### ADDITION TO THE NAVY.

The House again resolved itself into a Committee of the Whole on the bill from the Senate for the sale of the General Greene, and for making a further addition to the Navy.

The CHAIRMAN stated that the motion under consideration when the Committee rose was, to strike out the second section of the bill, which provides for the building or purchase of two small armed vessels, and appropriates therefor \$50,000.

Mr. NICHOLSON observed that since this subject had been before the Committee he had made it his business to inquire into the existing necessity for the two small vessels contemplated to be added to the Navy. He had learned, from authority in which he reposed full confidence, that two such vessels might at present be advantageously employed, but that one of them was indispensably necessary. Sensible of the large demands upon the Treasury, though his opinions remained unchanged, he would agree, in case the honorable Speaker (Mr. MACON) would waive his motion, to strike out the whole section, or in case they should negative it, to a provision being made for one vessel instead of two, and to a reduction of the sum appropriated to \$25,000.

Mr. MACON (Speaker) expressed his regret at his inability, holding still the same sentiments he had on a former occasion avowed, to comply with the wishes of the gentleman from Maryland.

A debate of some length ensued on the motion of Mr. MACON to strike out the second section.

MESSRS. SMILE and J. RANDOLPH supported the motion. They contended that no necessity existed in the present situation of the United States for an augmentation of the Navy; that it remained in the same state it had been fixed in during March, 1801, with the addition of four small vessels for the Mediterranean service; that it had heretofore proved fully competent to the protection of commerce, even when the complexion of our affairs was less pacific than at present; that the Mediterranean service had evinced that large vessels produced in that quarter more decisive effects than small ones, and that of the former description of vessels we had a sufficient number unemployed; that one great occasion for small vessels was removed by the permission of the State of South Carolina to import slaves, which superseded the

necessity of any additional force to restrain their illegal admission into the United States; that this addition to our marine force did not appear to be necessary, inasmuch as the President, whose Constitutional duty it was to give information to Congress of the state of the Union, and who directed the armed force of the nation, had not intimated his opinion of its necessity; and that Congress might be sure, if he thought it necessary, he would not hesitate to apprise them of it; that in adopting this provision of the bill the House was acting altogether in the dark, as no estimates of the expense had been furnished, and not even a committee appointed to examine either the propriety or expense of the measure. It was alleged that it became the Legislature, in the present posture of the national finances, to be uncommonly circumspect. New and heavy pecuniary obligations had been incurred, and time alone could show whether the present resources would be more than commensurate to meet them. That the Secretary of the Treasury, at the opening of the session, had spoken of the competency of our resources with a caution which ought to impress the House with the necessity of exercising strict economy, unless disposed to vote new taxes. To this point, this measure manifestly tended, and it became those who were hostile to new taxes, to hesitate before they adopted a measure that promised to lead to it.

The motion was, on the other hand, opposed by Messrs. NICHOLSON, EUSTIS, R. GRISWOLD, and HUGER. They observed that the bill under consideration had received the sanction of the Senate, and it might be rationally presumed that they had previously to its passage received satisfactory proof of its necessity; that the first section authorized the sale of the frigate General Greene, in the lieu whereof it was contemplated to build or purchase two small ships; that this measure therefore constituted no increase of the Navy beyond its present strength; that so far as related to expense, whatever the temporary cost, arising from the building or purchase might be, the permanent expense of two small vessels would be greatly inferior to that of one large one; that the annual expense of a forty-four gun frigate was \$104,000, while that of a vessel of sixteen guns was only \$36,000; that with regard to the argument of gentlemen drawn from a want of estimates, it was idle, as estimates had been furnished at the last session, as the basis of adding four small vessels for the Mediterranean service, which amounted to \$96,000, which sum appeared to be sufficient. If, therefore, four vessels cost \$96,000, two would not cost more than \$50,000; that with regard to the necessity of these ships, Congress were the proper and Constitutional judges; that it was their special duty to provide and maintain a navy, and to provide for the common defence and general welfare of the United States; and that the absolute dependence placed by gentlemen on Executive mandates was unprecedented, anti-republican, and unconstitutional; that it became the Legislature to judge for themselves as to the propriety of the measure; that

from the knowledge they possessed of the state of the country, and the extended sphere of commerce, abundant evidence was presented of its necessity. It was a fact well ascertained that, for Barbary warfare, these small ships were eminently useful, and that service required relief; for in case of a disaster occurring to one of our present small vessels, it was proper to be provided with others that might promptly make good the deficiency. That the acquisition of Louisiana would undoubtedly require some naval force to insure the collection of the revenue in that quarter; and that the state of the West Indies absolutely demanded an addition of some small vessels to protect our trade from the barges that were fitted out by the brigands for the purposes of depredation; that it was a fact that if the Executive, at this moment, possessed one of these ships, it would be immediately sent to the West Indies; that there were other important purposes for which these vessels were wanted. The Government had frequent occasion to send special Envoys, on points of vast importance, to the two great Powers in Europe. Was it then safe, or becoming the dignity of the nation to send such characters, in a private merchantman subject to the search or capture of any armed vessel of Europe?

Before a question was taken on the motion to strike out the section, Mr. JACKSON moved that the Committee should rise. If they rose he would oppose their having leave to sit again, with the intention of referring the bill to the Committee of Commerce and Manufactures.

The Committee agreed to rise; ayes 63.

Leave having been refused to them to sit again, Mr. J. RANDOLPH moved that a committee be appointed to inquire whether any and what, further additions may be necessary to the Naval Establishment of the United States.

Mr. ALSTON moved to amend the motion by striking out "a committee be appointed," and inserting "the Committee of Commerce and Manufactures be instructed." Messrs. ALSTON, NICHOLSON, and EUSTIS, supported, and Mr. J. RANDOLPH opposed this amendment. Carried, yeas 51, nays 46.

The motion thus amended was supported by Messrs. HUGER and ELMER, and opposed by Messrs. VARNUM and SMILIE. Carried, yeas 57, nays 44.

Mr. JACKSON then moved the reference of the bill to the Committee of Commerce and Manufactures. Agreed to without a division.

#### THURSDAY, January 5.

An engrossed bill making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and four, was read the third time, and passed.

*Ordered*, That the committee appointed, on the twelfth ultimo, "to inquire whether any, and, if any, what, alteration is necessary to be made in the law regulating the mode of selecting jurors to serve in the Courts of the United States," have leave to report thereon by bill, or bills, or otherwise.

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Mr. EARLY, from the committee last mentioned, presented, according to order, a bill directing the mode of selecting jurors to serve in the Courts of the United States; which was read twice, and committed to a Committee of the Whole House on Wednesday next.

#### PRINTING OF LAWS.

The House went into a Committee of the Whole on the bill for reprinting the laws of the United States.

Mr. JACKSON moved to strike out the first section.

A motion was made that the Committee should rise, on account of the absence of the chairman of the committee that brought in the bill, (Mr. MITCHILL.)

This motion was supported by Messrs. R. GRISWOLD and HOLLAND, and opposed by Messrs. SMILIE, JACKSON, and NICHOLSON.

Before the question was put, Mr. MITCHILL entered the House, when it was taken, and the motion rejected—ayes 47, noes 54.

The motion to strike out the first section recurring, Mr. MITCHILL spoke at some length on the expediency of reprinting the laws; but suggested the propriety of suffering the bill to rest until the next session.

Mr. JACKSON withdrew his motion to strike out the first section, and moved that the Committee should rise, with the view of postponing the bill to the next session.

This motion, after debate, was carried—ayes 67. The Committee were then refused leave to sit again.

Mr. JACKSON moved a postponement of the bill to the first day of December next.

Mr. THOMAS opposed the postponement. In case the motion to postpone should be negative, he said he would move the recommitment of the bill to a Committee, with a view to empower the Secretary of State to distribute the laws in the Territory of Louisiana.

The motion to postpone was rejected—ayes 47, noes 52.

Mr. THOMAS's motion was then agreed to—ayes 60.

Mr. DENNIS offered a motion directing the Secretary of State to transmit to each member of Congress a copy of the laws of the antecedent session.

Referred to the above Committee.

#### OFFICIAL CONDUCT OF JUDGE CHASE.

Mr. J. RANDOLPH said, that no people were more fully impressed with the importance of preserving unpolluted the fountain of justice than the citizens of these States. With this view the Constitution of the United States, and of many of the States also, had rendered the magistrates who decided judicially between the State and its offending citizens, and between man and man, more independent than those of any other country in the world, in the hope that every inducement whether of intimidation or seduction which could cause them to swerve from the duty assigned to them might be removed. But such was the frail-

ty of human nature that there was no precaution by which our integrity and honor could be preserved, in case we were deficient in that duty which we owed to ourselves. In consequence, sir, of this unfortunate condition of man, we have been obliged, but yesterday, to prefer an accusation against a judge of the United States who has been found wanting in his duty to himself and his country. At the last session of Congress a gentleman from Pennsylvania did, in his place, (on the bill to amend the Judicial system of the United States) state certain facts in relation to the official conduct of an eminent judicial character, which I then thought, and still think, the House bound to notice. But the lateness of the session (for we had, if I mistake not, scarce a fortnight remaining) precluding all possibility of bringing the subject to any efficient result, I did not then think proper to take any steps in the business. Finding my attention however thus drawn to a consideration of the character of the officer in question, I made it my business, considering it my duty, as well to myself as to those whom I represent, to investigate the charges then made, and the official character of the judge, in general. The result having convinced me that there exists ground of impeachment against this officer, I demand an inquiry into his conduct, and therefore submit to the House the following resolution:

*Resolved*, That a committee be appointed to inquire into the official conduct of Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, and to report their opinion whether the said Samuel Chase hath so acted in his judicial capacity as to require the interposition of the Constitutional power of this House.

After the motion made by Mr. J. RANDOLPH had been read from the Chair,

Mr. MITCHILL said, before the question was taken, he should be glad, from the novelty and serious nature of the proposed measure, to hear a statement by his friend from Virginia of the reasons in detail on which it was founded.

Mr. J. RANDOLPH observed, that when he was up before he had stated that the gentleman from Pennsylvania (Mr. SMILIE) had, in his place, at the last session of Congress, given a description of the official conduct of the officer to whom the resolution referred, which he considered the House bound to notice. It could not be conceived that the gentleman would have laid before the House a statement, the facts of which were not supported by his own knowledge, or by evidence on which he could place the utmost reliance. He did not conceive this to be a time to decide whether the information exhibited by the gentleman from Pennsylvania was or was not correct. At present an inquiry alone was proposed. If it should be made, it must result either that the conduct of the judge would be found to be such as not to warrant any further proceedings on the part of the House, or such as would require the interposition of that authority, which, as the immediate Representatives of the people, they alone possessed. If on inquiry the committee shall be

persuaded that the judge has not exceeded his duty; they will so report; if, on the contrary, they find it such as to require the interposition of the House, they will recommend that course of proceeding to which the House alone is competent. With respect to the facts which had come to his knowledge, Mr. R. said that they were such as he did not wish to state. He preferred its being done by witnesses, who were most competent to do it correctly.

Mr. ELLIOT said, I am as deeply convinced as the gentleman from Virginia that the streams of justice should be preserved pure and unsullied. I am also sensible that the Judicial department ought to attach to itself a degree of independence. I am of opinion that this House possesses no censorial power over the Judicial department generally, or over any judge in particular. They have alone the power of impeaching them; and when a judge shall be charged with flagrant misconduct, and when facts are stated which shall induce them to believe those charges true, I shall be at all times prepared to carry the provisions of the Constitution into effect, in virtue of which great transgressors are punishable for their crimes. The basis of this resolution is, that a gentleman from Pennsylvania, at the last session, stated that the judge named in it had been guilty of improper conduct. Of these charges I am uninformed, and every new member must be uninformed. It is astonishing to me that we are called upon to vote for an inquiry into the character of a judge without any facts being adduced to show that such an inquiry should be made. If the resolution pass in its present form, it appears to me that we shall thereby pass a vote of censure on this judge, which neither the Constitution nor laws authorize. If the judge be guilty, I should suppose the first step proper to be taken would be for some person aggrieved, or for members having personal knowledge, to exhibit facts on which the House may act. I can never consent, because the gentleman from Virginia, or any other gentleman, says that there are facts which have come to his knowledge that induce him to think an inquiry ought to be instituted, to vote for it, unless those facts are first stated. I can never agree to any act which shall in this manner, without the exhibition of proof, impose censure or suspicion on a judge. This course may be perfectly Parliamentary; but it strikes me as altogether unprecedented. I shall, therefore, until some facts are adduced, resist every attempt to impose a censure upon the conduct of any public officer.

Mr. SMILIE.—If the gentleman from Vermont had commanded a little patience, he would have perceived the remarks which he has just made to have been altogether unnecessary. He would have perceived the necessity imposed upon me by the observations of the gentleman from Virginia of stating those facts to which that gentleman alluded. It must be seen that these proceedings contemplate the possibility of an impeachment. It will be recollected by gentlemen who were in Congress at the last session, that I was then led to give a statement of facts respecting the con-

duct of Judge Chase on a particular occasion. That statement was not made with a view to impeachment. A bill had been introduced to change the districts of the circuit courts of the United States; when I discovered that Mr. Chase was assigned to the district of Pennsylvania, I felt interested in having him transferred to another district, considering that his previous conduct had rendered him obnoxious to the people of that State. These circumstances I stated to the House, and was in consequence called upon to assign my reasons why Judge Chase was obnoxious to the people of Pennsylvania. This is the history of the business so far. I am now called upon to state the facts which I mentioned on that occasion. This I shall do briefly.

A man of the name of Fries was prosecuted for treason in the State of Pennsylvania. Two of the first counsel at that bar, Mr. Lewis and Mr. Dallas, without fee or reward, undertook his defence. I mention their names to show that there could have been no party prejudices that influenced them. When the trial came on, the judge behaved in such a manner that Mr. Lewis declared that he would not so far degrade his profession as to plead under the circumstances imposed upon him. Mr. Dallas declared that the rights of the bar were as well established as those of the bench; that he considered the conduct of the judge as a violation of those rights, and refused to plead. The facts were these: The judge told the jury and the counsel that the court had made up their minds on what constituted treason; that they had committed their opinion to writing, and that the counsel must therefore confine themselves to the facts in the case before the court. The counsel replied that they did not dispute the facts, but that they were able to show that they did not constitute treason. The end of the affair was, that the counsel retired from court, and the man was tried without counsel, convicted, and sentenced to death.

After this the Attorney General wrote a letter to Messrs. Dallas and Lewis, requesting them to furnish their notes and opinions for the use of the President. They drew up an answer, in which they stated that the acts charged against Fries did not amount to treason, but were only sedition; and that they were so considered in the British courts. This letter was read to me by Mr. Dallas. After receiving the letter the President pardoned the man.

Mr. J. CLAY.—This debate appears to me to arise from causes the most extraordinary, and such as we are not accustomed to hear assigned on this floor. The gentleman from Virginia has made a motion justified by his own knowledge as well as that of my colleague; and this motion is opposed in a most extraordinary manner. I believe this is the first instance in which a motion to appoint a committee of inquiry into the official conduct of a public officer has been opposed. We are told by the gentleman from Vermont that this House has no right to pass a censure on a judge, and that judges should be highly independent. I am afraid that unless great care be taken the

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doctrine of judicial independence will be carried so far as to become dangerous to the liberties of the country. This motion does not, however, affect the character of the judge. Let it also be recollected, that if the reputation of the judge be at stake, the reputation of this House also is implicated. I consider this House as the Constitutional guardians of the morality of the Judiciary. Whenever even suspicion exists as to that morality, a committee of inquiry should be appointed. For the pure administration of justice is surely more important than the reputation of any particular judge. I am sorry my colleague thought it necessary to make any statement of facts to the House. I believe that more important facts than he has mentioned will be stated by witnesses. I believe likewise the reputation of the judge will be better preserved by the appointment of a committee than by assertions made on this floor by particular members, not responsible elsewhere for what they allege.

With regard to my opinions in this case, whatever my political impressions may be, they are entirely unbiassed. I have heard facts stated, but I cannot say that they have been satisfactorily proved to my mind. There are other charges equally reprehensible. Under these circumstances I ask if the character of the judge is not more implicated by a discussion of his official conduct on this floor than by appointing a committee to obtain facts. If he is guilty of the facts alleged against him, no gentleman will say that he is not impeachable. If he is only suspected of them, there ought to be a committee, that if guilty he may be impeached, and if innocent, be freed from the imputation thrown upon him.

Mr. R. GRISWOLD.—Gentlemen will acknowledge that this is a subject of great importance and delicacy. No one will doubt but that we ought to execute our duty so as to preserve the fountains of justice pure, and that we ought at the same time to treat the important character of a judge, or of any other high officer, with respect. I do not know but that this mode of procedure is warranted by precedent. But if it is, it is unknown to me. As the resolution now stands, I do not think it perfectly correct. The honorable gentleman from Virginia says he is acquainted with facts that warrant the proposed inquiry. The question is whether the House ought to be governed by the opinions of any one member. We know not what those facts are; the gentleman declines stating them. I do think, as the subject now strikes me, that the conviction of any one member of the propriety of this measure cannot warrant the interposition of the House. Instead of taking the individual opinion of a member, it ought to be stated that certain facts exist, which, if proved, will justify an impeachment. I do not know whether these ideas are not incorrect, having never before contemplated, or had a suspicion that such a motion would be made.

As to the remarks of the gentleman from Pennsylvania, I do not consider them as entitled to much weight. If the facts stated by him were of his personal knowledge, they would undoubtedly

merit attention. But he merely states that which he has received from others, and which amounts to nothing more than that the judge refused liberty to the counsel to argue a point of law after it was decided, and confined their argument to facts. In so doing, the judge may have erred, but it was an error of judgment for which he cannot be impeached. No lawyer will perhaps say that it was not the province of the judge to decide the law, and that he has not the right to prevent counsel from arguing it after his mind is made up. But this information is not of the knowledge of the gentleman. Are we then to institute an inquiry into the conduct of a high officer of the Government merely on hearsay? This has never been done under our Government. In the late case of Judge Pickering proof was furnished by the affidavits of witnesses testifying certain facts. I do not therefore consider it correct to proceed to inquire on the opinion of any gentleman. The proper course is first to have proofs which will justify ourselves to our own consciences in making the inquiry—for we ought not to touch the character of a judge, unless we are satisfied from facts that there is good reason for an investigation into his conduct. Gentlemen will not say that making an inquiry into the official conduct of a judge does not touch his character.

Gentlemen say if this committee find the conduct of the judge to have been correct, they will make a report to that effect; but it does not follow that the report will contain all the evidence adduced, and suspicion may still rest on the character of the judge, and that some facts may not be stated, which, if stated, would show his misconduct. Whereas if the business be brought generally before the House, on the exhibition of certain facts, the public will be enabled to decide whether they warrant impeachment or even suspicion. With this view of the subject, I am of opinion that it will be best to delay acting in this affair until facts shall be disclosed which will justify the step now proposed to be taken. I have as high a respect for the opinion of the gentleman from Virginia as for that of any other member on this floor; but I doubt whether we can justify our votes on the opinion of any single member; facts alone ought to govern our opinions. I, therefore, for the purpose of considering the course most proper to be pursued, move a postponement of the further consideration of the motion until to-morrow.

Mr. J. RANDOLPH.—Were I the personal enemy of the gentleman who is the object of this resolution, I should take precisely that course which, on this occasion, the gentleman from Connecticut seems more than half inclined to take. That gentleman wishes the resolution to lay until to-morrow, in order that he may have time to consider whether he can bring himself to refuse the inquiry altogether. He says that he cannot, or rather (for he speaks doubtfully) he thinks he cannot see the propriety of instituting an inquiry without evidence. What evidence? Nothing short of legal proof—testimony on oath. And what is the object of the resolution? To acquire that

very evidence. If we had the evidence, to what purpose make inquiry? As however the evidence cannot be had without inquiry, and the gentleman will not grant the inquiry but upon the evidence, it is plain that if we take the course which he recommends, we must go without both. Will gentlemen offer objections against inquiry which are applicable only to impeachment? If an impeachment were moved, they would have a right to call for evidence. But what is the object of the present motion? Merely to inquire whether there exists evidence which will justify an impeachment. But this inquiry we are told cannot be instituted on mere hearsay, although we have the declaration of a member in his place. What would be said of a grand jury, who being informed by one of their body that A or B could testify to the fact of a murder being committed within their jurisdiction, should refuse an application to the court to have them summoned, and because they could not find a bill of indictment unsupported by evidence, should reject that evidence which might be within their reach? I profess not that tenderness of conscience which has been displayed by the gentleman from Connecticut. My conscience teaches me to accuse no man wrongfully, but to deny inquiry into the official conduct of no one, however exalted his station; and I had supposed, from his practice, that the gentleman held the same opinion. For it will be recollected that on the eve of the close of the last session he had himself instituted an inquiry which went to impeach the conduct of some of the first officers of the Government. No one on that occasion stepped in between the demand for an inquiry and those officers implicated in it? No inquiry was made, and it precluded any further proceeding on the part of the House, since the charges which had been attempted to be brought forward would not bear examination. Mr. R. concluded by calling for the yeas and nays.

Mr. GREGG said he should vote against the postponement and in favor of the resolution. The case was somewhat new, but he perceived no impropriety in giving it the same direction with all the other business originated in the House. What is this committee to be appointed for? To investigate facts and report them to the House. Was it not most proper that gentlemen whose characters were implicated should have, in the first instance, facts stated privately before a committee, than that parts of their character should be immediately brought into view before the House? He recollected one fact not yet alluded to in debate. In 1792, after the army under the command of General St. Clair was defeated, great dissatisfaction arose, and the character of the commander was implicated. The idea was that the expedition had not been conducted with propriety. The business was brought before Congress. It was understood at that time, whether justly or not, Mr. G. would not pretend to say, that the commander-in-chief could not be tried by a court martial. Congress therefore took up the business, and appointed a committee of in-

quiry, who went through a lengthy examination of the subject. Mr. G. mentioned this precedent that gentlemen might turn their attention to it.

Mr. R. GRISWOLD said—I had hoped that the language used by me, when I was up before, would not have led gentlemen to suppose that I was acting as the friend or the enemy of Judge Chase. I am acting in neither capacity. I am acting only as a member of this House, who ought to be anxious on an occasion of such importance to take that course which is most consistent with propriety; that course which results from the duty this House owes the nation, and that duty which they owe the character of a judge. It did appear to me that it was not correct to call the character of a public officer into question unless some necessity should first appear. No facts are presented on this occasion. The gentleman from Virginia has said that he is in possession of facts, or of something which makes him believe that an inquiry is proper, but he does not choose to communicate those facts. The gentleman from Pennsylvania has given us his information. The question is, whether it is proper on these light suggestions to institute a solemn inquiry into the character of this judge. It appears to me that we ought not to throw any imputation on the character of any officer without evidence that such an inquiry is necessary. The case mentioned by the gentleman from Pennsylvania (Mr. GREGG) does not apply. Dissatisfaction existed in the country and in this House on the events of a campaign; an inquiry was instituted; but what was its object? The committee were appointed to inquire into the general causes of the failure of the expedition; they were not instructed to inquire into the character of a particular officer.

The gentleman from Virginia has referred to another case, when he says that we were ready enough to institute an inquiry, and has left it to be inferred that the inquiry was made without any previous proofs of its necessity. But certainly on that occasion inquiry was not made without proof. I suppose the inquiry alluded to was that which related to the conduct of the Commissioners of the Sinking Fund. It was instituted on a report made by them, and which we thought was not satisfactory. The resolution offered was adopted, and inquiry was made, the result of which is well known to every gentleman. It follows, therefore, that there are no precedents adduced which apply to the present case.

It is my wish that the proceedings of this House may on this occasion be perfectly correct, and that we may not be precipitated into the adoption of this resolution without due consideration. If it is correct to vote an inquiry in all cases where a member rises on this floor and desires it, it is correct to vote it in this case. In this case a gentleman rises and says that he is satisfied an inquiry ought to take place. The question is, whether it is proper to inquire on the suggestion of a member? If it is proper without facts being adduced, then it will be always proper to inquire whenever any member requires it, and it will be also proper whenever any individual citizen requires it. This



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course I have never thought correct. On the contrary I think some facts ought to be previously presented to establish the necessity of an inquiry before it is voted. In the case of Judge Pickering a very different course has been pursued. The appointment of a committee of inquiry originated from a Message of the President. We find in February, 1803, the House received the following Message:

"The enclosed letter and affidavits, exhibiting matter against John Pickering, District Judge of New Hampshire, which is now within Executive cognizance, I transmit them to the House of Representatives, to whom the Constitution has confided a power of instituting proceedings of redress, if they shall be of opinion that the case calls for them."

This Message was referred to a committee, with the accompanying papers, furnishing evidence of the necessity of an inquiry. But the course pursued to-day is very different. A gentleman gets up, and moves an inquiry into the conduct of Judge Chase, and says that he is of the opinion that it ought to be made. This course, I think, is incorrect. Some facts ought first to be adduced. I repeat it, I am on this occasion neither the friend nor the enemy of Judge Chase. I am the friend of this House; I wish its proceedings to be correct, and I hope they will not do hastily what they may hereafter regret.

Mr. DENNIS.—The only question now before the House is, whether they will postpone the consideration of the motion on the table. I cannot but express my surprise that the gentleman from Virginia should oppose this motion, when several have declared that they are not prepared to vote on this resolution. Gentlemen ought to recollect that, according to our rules, on all motions which require the concurrence of the two Houses, one day's delay is necessary. Although this resolution is not of this kind, yet it surely is not of inferior importance.

I believe that the gentleman alluded to by the motion would rather court than shrink from an investigation of his official conduct. I believe, also, that it has become necessary, from the discussion of this day, that an investigation should take place. I am not, therefore, prepared at this time to say whether I shall not ultimately vote for an inquiry. But it appears to me that the course proposed is inverting the natural order of things, inasmuch as it institutes an inquiry not growing out of facts, but for facts. I believe also that the facts stated, if authenticated, will furnish no ground for impeachment. Circumstances attending this motion show that the gentleman from Virginia does not consider them as a sufficient ground for an impeachment. The refusal to hear the point of law discussed was the act of the court. Mr. Chase did not sit alone on the bench. Another judge must have been associated with and have concurred with him. If so, why does not the resolution allude to the other judge? Why select one judge, when both are equally implicated in the charges?

I believe the most parliamentary way would be for a gentleman to state, in the form of a resolu-

tion, the grounds of impeachment, and then to refer such a resolution to a select committee for investigation. In this mode the House may correctly institute an inquiry, and send for persons and papers. This is the only parliamentary mode of proceeding. In every case where impeachments have been made, the facts have been stated in a resolution, concluding with a motion for an impeachment. The House possess no censorial power over the judges, except as incidental to the power of impeachment. If gentlemen are possessed of facts, why not state them in the form of a resolution, and move an impeachment? Then, if the facts appeared to me to warrant an impeachment, I would not object to their going to a select committee, though I believe the most proper course would be for the House to send for persons and papers, and to examine for themselves. But it is extremely novel and unprecedented for the House, without facts, to institute an inquiry into the character of a high officer of the Government.

May they not, in the same way, extend their inquiry into the conduct of every judge in the United States, without stating any facts on which the inquiry is founded? For these reasons I shall vote for postponing the further consideration of this resolution for one day, on account of the importance and delicacy of the subject, and the serious deliberation it is entitled to. I do not know whether, if sufficient time is allowed for consideration, and I shall be convinced that this course is consistent with parliamentary usage, I shall not be in favor of an investigation.

Mr. ELLIOT.—When the yeas and nays are called, I shall on every occasion rise in favor of taking them. I wish the votes I give in this House entered on the Journal, and known to every citizen of America. The more I contemplate the course pursued on this occasion, the more extraordinary and unprecedented it appears to me. The gentleman from Virginia rose, and, after an elegant exordium, stating that the streams of justice should be preserved pure, and other fine things, told us that he had received information of facts that convinced his mind that an inquiry ought to be made into the conduct of a judge. Suppose the gentleman, on facts known to himself, had stated his opinion, that an inquiry ought to be made into the conduct of the President of the United States. We have the same right to impeach the President as a judge. If the inquiry would be improper in the one instance, without facts being adduced, it would be equally so in the other. For we possess no censorial or inquisitorial powers over the conduct of the judges of the Supreme Court. If Judge Chase has been guilty of misconduct, let it be stated. If that misconduct be of a private nature, let the House assume the character of a grand jury, hold private sittings, receive evidence, and determine whether the judge shall be impeached or not. The gentleman asks whether a grand jury in the case of a charge of murder can send for persons. Undoubtedly they can. But did gentlemen ever hear of their appointing a committee to inquire whether a man charged with a partial offence ought to be indicted? We are called on, as the grand

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inquisitors of the nation, to appoint an inquisitorial committee to get evidence; for it is granted that as yet we have none. I believe that no committee of this nature ought to be constituted, without previously ascertaining facts that will warrant the delegation of such great power. No accusation, even, is before us; but we are called upon to appoint a committee to look one up—a committee to be invested with power to send for persons and papers—a committee to inquire in private. I will never consent to the appointment of such a committee, until facts that will justify the inquiry are stated.

The facts adduced by the gentleman from Pennsylvania, if proved, could not induce me to believe that the judge is impeachable. I may suspect that his conduct was erroneous and improper, but I cannot conceive it proper to impeach a single judge for the act of the court. Believing, therefore, this conduct unprecedented, unparliamentary, and replete with improprieties; believing it novel; believing that, in an affair of so much consequence, we ought not to proceed with precipitation; believing that we are entitled to demand one day to reflect upon it,—I am proud, on this occasion, to record my vote in favor of the postponement until to-morrow; and if it were for a week, I should with equal pride and pleasure vote for it.

Mr. HOLLAND moved an adjournment.

Mr. J. RANDOLPH said, that considering a motion to adjourn equivalent to a postponement for a day, he moved the taking the yeas and nays upon it.

Mr. HOLLAND moved an adjournment, on which the question was taken—yeas 52, nays 62.

YEAS—Willis Alston, jun., Nathaniel Alexander, Simeon Baldwin, George W. Campbell, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, James Elliot, Edwin Gray, Gaylord Griswold, Roger Griswold, John A. Hanna, Seth Hastings, James Holland, David Hough, Benjamin Huger, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, Matthew Lyon, Nahum Mitchell, James Mott, Thomas Plater, Samuel D. Purviance, Erastus Root, Tompson J. Skinner, John Cotton Smith, John Smith of Virginia, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, George Tibbits, John Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Marmaduke Williams, Joseph Winston, and Thomas Wynns.

NAYS—David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Joseph Clay, John Clopton, Jacob Crowninshield, Richard Cutts, William Dickson, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, James Gillespie, Andrew Gregg, Thomas Griffin, Samuel Hammond, Josiah Hasbrouck, William Hoge, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Andrew McCord, David Meriwether, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New Thomas Newton, jun., Joseph H. Nich-

olson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of New York, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne Joseph B. Varnum, John Whitehill, and Richard Winn.

The question of postponement recurring,

Mr. HUGER considered the course contemplated by the resolution as improper, unparliamentary, and unprecedented. To make up his mind on the course proper to be pursued, he was in favor of the postponement.

Mr. HOLLAND observed that he had moved an adjournment to allow those gentlemen time for reflection who had not yet made up their minds on the propriety of the motion. He was himself of this number. Having been allowed no time for reflection, he did not feel perfectly satisfied with the appointment of a committee of inquiry before any facts had been substantiated. Desiring further time to form his judgment, and seeing no occasion for precipitation, he should vote in favor of a postponement.

Mr. G. W. CAMPBELL.—I will not, at this late hour, detain the House with the expression of my ideas in detail. I am as desirous as any member of this House that the streams of justice should flow pure and unsullied, as on their purity depend the safety and liberties of the people of the United States. But when we are about to enter into measures for preserving them clear, we owe it to ourselves to preserve order in our conduct, and to act in such a manner as we shall be able to justify to our constituents. Every member of this House, on such an occasion, ought to be as cautious in his proceeding as a judge in delivering his opinions, lest, while we are condemning the conduct of the judge, we ourselves go astray from our duty. For this reason, I am against the adoption of a measure which may throw a censure on a character invested by the United States with high authority, until I am convinced we have sufficient ground for doing so. The resolution on the table can have but one object, to wit: the direction of an inquiry whether sufficient evidence can be procured to authorize an impeachment. I conceive that this House cannot proceed in any other way. I am therefore of opinion, that, before the vote for an inquiry, there ought to be probable grounds that facts exist that authorize an impeachment, and that evidence can be procured of their existence. I am not prepared to say, from anything which has been adduced, that such evidence does exist. I conceive that until probable grounds are shown, we ought not to authorize such a procedure, inasmuch as it may establish a precedent that we may hereafter regret—a precedent which will put it in the power of any member to move and obtain an inquiry into the conduct of the President, a judge, or any other officer under the Government. Under these circumstances, I am not prepared to say this is the regular course of proceeding. I do not profess to have much knowledge of parliament-

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any proceedings, and have therefore waited, before I expressed my opinions, to hear such precedents as gentlemen could adduce. Having heard none, I conclude none exist.

I conceive that the act of this House, in voting for a committee of inquiry, is equivalent to the expression of the opinion that they have evidence of the probable grounds of the guilt of the judge. The gentleman from Virginia has told us that the powers of this House are, in some degree, like those of a grand jury. I agree that they have all the powers of a grand jury, and it is on this ground that I deny the power now contended for. I say that a grand jury has no right to send for testimony: they have only a right to receive testimony from any one of their body, and to receive such witnesses as the court may send them. If, then, there be evidence in the present case, let us act upon it, even though it be *ex parte*, and although that might, perhaps, be going too far.

I repeat it, I have heard no statement satisfactory to my mind that there are probable grounds for proceeding in this business. It is true, the gentleman from Pennsylvania has made a statement, but that statement appears to me to depend not so much on facts as on opinions; and it is not my wish to decide on the propriety of the conduct of the judge until the facts are before us. It is certain that a judge has a right to control counsel, and to say when his mind is made up, while it is also his duty to hear the allegations that shall be made.

In addition to these reasons for a postponement, I am also in favor of it, because, whenever a sincere desire exists to gain information, which can only be done by allowing further time, I shall always be in favor of it, when no material injury can result from the indulgence.

Mr. MORT.—I am in favor of the postponement, because I wish time for consideration, and because I am against the resolution itself. I think it is improper to go into such an inquiry before specific charges are laid before the House, when it will be proper for the House to consider whether those charges are sufficient to sustain an impeachment; then it will be proper to proceed, and not till then. No charges have yet been laid before the House: we have only been told by one member that he is satisfied sufficient grounds exist.

Mr. J. RANDOLPH was sorry to be obliged to trespass again on the patience of the House, but the direct application made to him by the gentlemen from Tennessee and South Carolina imposed upon him the necessity of stating his reasons for proceeding in what they were pleased to term so precipitate a manner. They ask, why not have laid the resolution on the table by way of notice to the House? Because, sir, I cannot in a matter of extreme delicacy make the opinions of other gentlemen the standard of my own actions. I should have conceived the character implicated in the resolution as having just cause of complaint against me, had I not been ready to decide in a moment on it, and did I not press its immediate decision. I should have deemed it an act of cruel injustice to have hung the inquiry over

his head even for a day. I should have expected the reproach of setting suspicion afloat whilst I avoided examination into them; for I should have deserved it, had I pursued the course which gentlemen wish to adopt. I can see no difference between hanging up this motion for a day or a year but the mere difference of time. What is the object to be obtained? Do we wait for evidence, or any information, which will assist us in forming a correct opinion? Not at all. To-morrow the question will recur upon us—"Is it proper, from what has already appeared, to institute an inquiry into the conduct of this officer?" And this we are as competent to decide at this moment as at any future day. When, however, gentlemen consider a resolution to make inquiry the same as an inquiry already had, I am not surprised at finding myself opposed to them in opinion. I repeat that all their arguments are applicable to a motion of impeachment only. But it seems that no precedents have been adduced, and time is wanted to hunt them up. Gentlemen should recollect that but two cases of impeachment have taken place under this Government; one of a Senator from Tennessee, the other of a district judge of New Hampshire. By what precedents were the proceedings in those cases regulated? How is it possible in a Government hardly in its teens, where new cases must daily occur, as its various functions are called into exercise, to find precedents? It did so happen, in the case of the Senator from Tennessee, that the information on which his impeachment was grounded came from the Executive. But suppose that information had not been communicated by the Executive? Would that have precluded all inquiry? Suppose too, in the case of Mr. Pickering, that no information had been received from the Executive, and that a gentleman from New Hampshire had risen and said "However painful the task, I deem it my duty to state that the conduct of the judge of the district in which I reside, has been such as renders him unfit for the important station which he holds, and I therefore move for an inquiry into his conduct." Would the House have denied the inquiry? Will they rely altogether on the attorney of the district, whose interest it is to be well with the judge, and whose patience must be worn out with his misconduct before he will undertake to call the attention of Government to it? Are gentlemen aware of the delicate situation in which those officers are placed? Suppose information had been given to a member of the malfeasance of a judge by a person who should say: "It is not pleasant to originate accusations; those who come forward in these cases undertake an invidious task; while therefore I wish my name not to be mentioned, I shall be ready when called upon, by proper authority, to give my testimony." This is a hypothetical case, but one by no means improbable. Would it not be a point of honor not to expose the name of the informant?

But say gentlemen, the charge is of a general nature. While I do not admit the force of this remark, supposing it to be correct, I deny that it is a general charge. The inquiry is general, but

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it is founded on a statement made by the gentleman from Pennsylvania. I made no other statement. I have said that I believed there existed grounds of impeachment. What they are I shall not state here. They may be those exhibited by the gentleman from Pennsylvania, or they may be others. Will gentlemen assert that the statement of facts made by the gentleman from Pennsylvania will not, if true, warrant an impeachment? What does it amount to? A person under a criminal prosecution, having a Constitutional right to the aid of counsel in his defence, has, by the arbitrary and vexatious conduct of the court, been denied this right. Such is the nature of the charge. Has it come to this, that an unrighteous judge may condemn whom he pleases to an ignominious death, without a hearing, in the teeth of the Constitution and laws, and that such proceedings should find advocates here? Shall we be told that judges have certain rights, and whatever the Constitution or laws may declare to the contrary we must continue to travel in the go-cart of precedent, and the injured remain unredressed? No, sir, let us throw aside these leading-strings and crutches of precedent, and march with a firm step to the object before us.

As to the motion of postponement, Mr. R. said it was of little consequence to him whether it prevailed or not. On a charge of specific malfeasance, he thought it impossible to refuse an inquiry. Whatever should be the result he should rest satisfied with having discharged his duty to the House and to the nation. Believing the circumstances to demand inquiry, he had made it. Without circulating whispers of reproach, he had given the person implicated that opportunity of vindicating his character which he himself should require if he stood in the same unfortunate situation.

The Committee rose, and the House adjourned.

#### FRIDAY, January 6.

A memorial of the officers of the militia of the District of Columbia was presented to the House and read, praying a revision and amendment of an act of Congress, passed at the last session, entitled "An act more effectually to provide for the organization of the militia of the District of Columbia," for the reasons therein specified.

*Ordered,* That the said memorial be referred to Mr. VARNUM, Mr. JOHN SMITH of Virginia, Mr. JOHN CAMPBELL, Mr. STEPHENSON, and Mr. NICHOLAS R. MOORE; to examine and report their opinion thereupon to the House.

*Ordered,* That the Committee of Commerce and Manufactures, to whom was referred, on the eighteenth of October last, so much of the Message from the President of the United States, of the seventeenth of the same month, as relates "to the adopting of measures for preventing the flag of the United States from being used by vessels not really American," have leave to report thereon by bill or bills, or otherwise.

Mr. SAMUEL L. MITCHILL, from the committee last mentioned, presented a bill to amend the act,

entitled "An act concerning the registering and recording of ships and vessels;" which was read twice and committed to a Committee of the Whole on Tuesday next.

A petition of sundry aliens, resident in the city of Baltimore, was presented to the House and read, praying that the act of Congress, entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject," passed the fourteenth of April, one thousand eight hundred and two, may be so amended, that the petitioners and others, who resided in the United States previous to the passing of the said act, may be admitted to the rights of citizens after five years' residence.—Referred to Mr. MCCREERY, Mr. VAN RENSSELAER, and Mr. JOSEPH CLAY; to examine and report their opinion thereupon to the House.

#### IMPORTATION OF SLAVES.

Mr. BARD.—For many reasons this House must have been justly surprised by a recent measure of one of the Southern States. The impressions, however, which that measure gave my mind, were deep and painful. Had I been informed that some formidable foreign Power had invaded our country, I would not, I ought not, be more alarmed than on hearing that South Carolina had repealed her law prohibiting the importation of slaves.

In the one case we would know what to do. The emergency itself would inspire exertion, and suggest suitable means of repelling the attack. But here we are nonplussed, and find ourselves without resource. Our hands are tied and we are obliged to stand confounded, while we see the flood-gate opened, and pouring incalculable miseries into our country. By the repeal of that law, fresh activity is given to the horrid traffic, which has been long since seriously regretted by the wise and humane, but none have been able to devise an adequate remedy to its dreadful consequences.

Congress has but little power, or rather they have no power to prevent the growth of the evil. To impose a tax on imported slaves is the extent of their power; but every one must see that it is infinitely disproportionate to what the morality, the interest, the peace, and safety, of individuals, and of the public, at this moment, demand. And though in regard to their present case the power of the General Government may be insufficient to check the mischief, yet I hope they are disposed to discourage it, as far as they are authorized by the Constitution. Therefore I beg leave to offer the House the following resolution:

*"Resolved,* That a tax of ten dollars be imposed upon every slave imported into the United States."

*Ordered* to lie on the table.

#### OFFICIAL CONDUCT OF JUDGE CHASE.

The House resumed the consideration of the motion of the fifteenth instant, "for the appointment of a committee to inquire into the official conduct of Samuel Chase, one of the Associate Justices of the Supreme Court of the United States," and the said motion, as originally pro-

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posed, being again read, in the words following, to wit:

*"Resolved, That a committee be appointed to inquire into the official conduct of Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, and to report their opinion whether the said Samuel Chase hath so acted in his judicial capacity, as to require the interposition of the Constitutional power of this House:"*

A motion was made and seconded to amend the same, by inserting, after the words "one of the Associate Justices of the United States," the following words, "and of Richard Peters, District Judge of the district of Pennsylvania."

MR. SMILIE.—When the motion now under consideration was made yesterday, I should have felt surprised at the course which the debate took had I not often witnessed such things in former times. It seems to be considered as improper that a gentleman should bring forward a motion for an inquiry into the official conduct of a public officer, and expect the House to comply with his request, unless he should at the same time produce such evidence as shall prove the facts charged. If this course of proceeding be correct, I have ever been in error. What does the gentleman from Virginia ask? Suppose he has taken exception to the conduct of the judge from some facts which have come to his own knowledge. Under such circumstances it will be allowed that it is the duty of the House to make the inquiry. When the question shall be whether an impeachment shall be preferred, it will be proper that evidence should be produced. But now only a committee is asked to receive evidence, and to determine whether it be such as in their opinion will afford grounds for an impeachment. It is impossible for me to conceive any way that can be pursued which will be more favorable to the person whose character is implicated than that which is proposed. It is merely to inquire whether such facts can be sustained as will afford grounds for an impeachment. Certainly in this stage of the business it is not necessary to produce evidence to the House, as the House are not competent to receive testimony, which a committee is. It is a rule of this House that so much respect is due to a member, that if he states that he possesses information proper to be communicated to the House, but which in his opinion ought not to be done but with closed doors; that, in such case, the doors shall be shut without any vote of the House.

Surely, then, on the request of a member for a committee of inquiry, that measure ought to be adopted. This, in my opinion, is the best course that can be pursued for the person implicated. There is, it is true, thereby expressed an opinion of some one member that this judge has done wrong. So far his character is implicated; this is the only possible way in which it is implicated. The committee are to inquire whether there are grounds for an impeachment or not. If they report that there are not grounds, the accusation will be dismissed; and if the report is that there are grounds, the House will at once perceive the

necessity of taking this step to ascertain their existence.

Another ground of resistance is taken. It is said there are precedents for this proceeding. I believe that all precedents must have an origin; and that one person has as good a right to establish them as another. Our Government is young, and only two cases of impeachment have occurred under it. Most of our precedents respecting Parliamentary proceedings are borrowed from England, and, if precedents are necessary in this affair, we must resort to that country for them. My opinion is that they are not necessary, and that common sense and the reason of the thing are all that are necessary to guide our decision in this case. There is, however, in the British annals, no deficiency of precedents. The first I shall mention is to be found in the case of the Earl of Strafford. I may be told that this precedent was established in turbulent times: I may also be told of the improper mode of proceeding. I do not pretend to vindicate the whole course of procedure. I think it was wrong. But with regard to the first stages of the business, I believe them to have been correct. It will be seen that, in that instance, a more direct mode was pursued than is proposed in the present case.

The precedent I allude to will be found in Hume's History, vol. 2, page 249. That historian says,—"A concerted attack was made upon the Earl of Strafford in the House of Commons. It was led by Pym, who, after expatiating on a long list of popular grievances, added, 'we must inquire from what fountain these waters of bitterness flow; and though, doubtless, many evil councillors will be found to have contributed their endeavors, yet is there one who challenges the infamous pre-eminence, and who, by his courage, enterprise, and capacity, is entitled to the first place among these betrayers of their country. He is the Earl of Strafford, the Lieutenant of Ireland, and President of the Council of York, who, in both places, and in all other provinces where he has been entrusted with authority, has raised ample monuments of tyranny, and will appear, from a survey of his actions, to be the chief promoter of every arbitrary council.' Many others entered into the same topics, and it was moved that Strafford should be impeached. Lord Falkland alone, though the known enemy of Strafford, entreated the House not to act with precipitation. But Pym replied that delay would blast all their hopes; without further debate the impeachment was voted, and Pym was chosen to carry it up to the Lords."

In this case it does not appear that any evidence was called for; a member of the House of Commons got up and declared his opinion of that officer, and the same session an impeachment was voted. This course of proceeding is very different from that now proposed. I will now refer to a more modern precedent which at the time does not appear to have been objected to. It occurred in the reign of George I, and will be found stated in Russell's "Modern Europe," vol. 4, page 398.

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"A new Parliament was called in which the interest of the Whigs predominated, and a secret committee, chosen by ballot, was appointed to examine all the papers, and inquire into all the negotiations relative to the late peace, as well as the cessation of arms by which it was preceded. The Committee of Secrecy prosecuted their inquiry with the greatest eagerness, and, in consequence of their report, the Commons resolved to impeach Lord Bolingbroke, the Earl of Oxford, and the Duke of Ormond, of high treason."

One circumstance is worthy of attention. A cause of dissatisfaction at the conduct of the judge has undoubtedly prevailed. Whether he is wrongfully accused I will not say; but the dissatisfaction is manifest; for the Representatives of two respectable States lately came forward and opposed his being assigned to circuits which embraced their States. This single fact ought to make an impression on the House.

It is alleged that there is no proof before the House; but one thing is notorious—is universally known. It is this, that this man (Fries) was tried before that judge for his life, and was tried without being heard. This fact cannot be disputed. When we consider the importance of the life of a citizen, and know that such an event has taken place, is it not the duty of the only body competent to inquire into the fact? With other gentlemen, I believe that the fountains of justice ought to be kept pure; I believe also that the judges are like other men, and that like them they are subject to the common frailties of human nature; and I do believe that when the frailties of human nature produce such effects, the House cannot be justified to themselves or their country without making an inquiry. Our duty to our country calls for it; our duty to the man who is implicated also calls for it. If innocent, a proper regard to his character claims it; and his friend from Maryland informs us that he will rejoice at this opportunity of coming forward and vindicating himself. If, then, the inquiry be equally necessary for placing the character of the man upon its proper footing, and for preserving the purity of justice, how can the House resist it?

Mr. DENNIS said he had only expressed an opinion that such an investigation would be rather solicited than avoided by Judge Chase.

Mr. LEIB.—I am by no means an enemy to inquiry, but I am not a friend to the partiality of this resolution. We are told that it is grounded on the misconduct of the Circuit Court in Philadelphia on the trial of Fries. If one judge of that court was guilty of misconduct, the other attending judge must have been equally guilty. The conduct complained of was the act of the court, and not of an individual judge. This resolution ought therefore to embrace both the attending judges. My opinion is that both are criminal, and ought to be brought to the bar of justice. I therefore move an amendment of the resolution by introducing the name of Richard Peters, so as to embrace an inquiry into the conduct of both judges, and call for the yeas and nays on the amendment.

Mr. J. RANDOLPH.—I wish to state for the in-

formation of those gentlemen who were not in the last Congress, that the gentleman from Pennsylvania, whose statement, thus made, is the groundwork of the present inquiry, did not offer any matter which tended to impeach the conduct of Mr. Peters, while there was a specific charge of misconduct brought against the other judge. In consequence of this charge I conceived it my duty to make an inquiry into the official conduct of Judge Chase. I mention this circumstance to show that however the charge of partiality may apply to the resolution, it cannot apply to the mover.

Mr. LEIB.—I do not charge the mover with partiality, but the resolution, with embracing one judge instead of two. Judge Peters was on the bench at the time. This outrage upon justice was the act of the court. How the conduct, therefore, of one judge shall claim investigation, while that of the other is passed over in silence, to me is mysterious. I think impartial justice calls for an investigation into the conduct of both.

Mr. SMILIE said there could be no doubt that if the court were agreed, Judge Peters had been equally guilty of misconduct. On the trial of Fries, Mr. Chase presided, and Mr. Peters attended. If Judge Peters concurred in the decision, he was equally culpable.

Mr. NICHOLSON.—This resolution is grounded upon a statement made during the last session, by a member from Pennsylvania implicating the character of one of the justices of the Supreme Court. Upon information thus given, my friend from Virginia has thought himself bound to bring the business before the House, that an inquiry may be made into his conduct. For myself I will never hesitate, I care not who the person implicated may be, and however exalted his station, to give my vote for inquiring into his official conduct, when a member of this House rises in his place, and states that, in his opinion, he has been guilty of misconduct. For this reason I shall vote for the amendment; it having been stated by a member that Judge Peters was on the bench and did concur with Judge Chase.

And on the question that the House do agree to the said amendment, it was resolved in the affirmative—yeas 79, nays 37, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, John Campbell, Joseph Clay, John Clopton, Jacob Crowninshield, Richard Cutts, John Dennis, William Dickson, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Eustis, William Findley, James Gillespie, Edwin Gray, Andrew Gregg, Thomas Griffin, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Hoge, James Holland, David Holmes, Benjamin Huger, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Thomas Lowndes, John B. C. Lucas, Andrew McCord, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, John Patterson, Oliver Phelps, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan,

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John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, James Stevenson, John Stewart, David Thomas, Philip R. Thompson, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Adam Boyd, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Gaylord Griswold, Roger Griswold, David Hough, Samuel Hunt, Thomas Lewis, Henry W. Livingston, William McCroery, Nahum Mitchell, Samuel L. Mitchell, James Mott, Beriah Palmer, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, John Smith of New York, Henry Southard, Samuel Taggart, Samuel Tenney, Samuel Thatcher, George Tibbits, Abram Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, John Whitehill, and Lemuel Williams.

MR. LOWNDES.—Were I to be governed by considerations other than those resulting from a sense of duty I should vote for this resolution, as I believe it would afford the character implicated the readiest mode of vindication. But I do not feel so high a respect for the opinion of any one member as to give up my opinion to his, as to the course most proper to be pursued on this occasion. The gentleman who has offered this resolution says, that the facts on which it is founded are within his own knowledge. Let the gentleman then lay them before the House. Otherwise we shall legislate not on the facts before us, but merely on the opinion of a single member on facts only known to himself. We are told that this motion is founded on the statement of an honorable gentleman from Pennsylvania. What is that statement? That one of the counsel in the trial of Fries informed him that the judge declared the counsel had no right to argue a point of law after the mind of the court was made up. I ask if any gentleman is prepared to say that the judge was wrong? I am not prepared to say so. While, too, I am unwilling to detract from the respect due to the statement of the gentleman from Pennsylvania, I am equally unwilling to subscribe to his opinions. He may have misconceived the information communicated to him. It is said that it is necessary to preserve pure the streams of justice. I agree in this remark, and I say that the resolution on the table goes to destroy the independence of the judges, and of consequence to pollute the streams of justice; to make the judges the flexible tools of this House. It is impossible that under such circumstances men of talents and integrity will take seats on the bench, when their character shall be liable to be scrutinized without any facts being previously adduced.

I think it absolutely necessary that this resolution should not pass. For if it passes, it will establish a precedent that any member may procure an investigating committee to inquire into the conduct of any executive or judicial officer merely upon his opinion, unsupported by facts that such an inquiry is necessary. Suppose parties to be nearly equally divided; a member has only to propose an inquiry into the conduct of any officer to whom he may feel inimical, and thereby throw a cloud upon his character, and render him the ob-

ject of suspicion. Thus do I fear that this precedent will furnish the instrument of vengeance of one party against another. The price we pay for our liberties is the existence of parties among us; but it becomes us rather to restrain than to invigorate their passions. If we establish this precedent we shall render impeachments so easy, as greatly to facilitate the means of oppression.

MR. LOWNDES concluded by saying that in this affair he threw party considerations entirely out of view. He was personally unacquainted with Judge Chase, and if there was a single affidavit of his misconduct, the appointment of the committee of inquiry should have his vote; but that under the circumstances attending it, he considered the measure improper in every point of view in which he could consider it.

MR. FINDLEY observed, that though the abstract right of the members to move for an inquiry into the conduct of public officers, in order to find whether presumptions against their character afforded ground for impeachment, was not expressly denied, yet the manner in which the opposition to the present resolution was conducted was equal to denying the right. He trusted, however, that the House would support this right, as it was one of the most important of any with which they were vested. It grew out of the power of impeachment, and it was necessary for the exercise of that power, and was justified by precedents. By the rules of the House any member has a right to have the doors shut in order to move such a resolution as he thinks proper. This has been usual in cases of impeachment in Britain, from which we derive the forms of impeachment. There it has been common to shut the doors and for a member to move for an impeachment of a public officer, and to procure the officer impeached to be taken into custody before there was time or opportunity to take any other testimony than the information stated by the member who moved the resolution, probably supported by public fame. Taking the party into custody was necessary to the circumstances of that country and the extent of punishment, which might not only affect the liberty and property, but even the life of the party found guilty. It was necessary because of the influence of the powerful nobility, who might have it in their power to stand in their defence; but, as all the penalties in the power of this Government to inflict by impeachment only affect the official trust and character, taking into custody is unnecessary.

He observed, that the arguments in opposition to the resolution turned chiefly on the ground of expediency and of precedent.

In his opinion it appeared not only expedient but necessary, from the notoriety of facts on which the resolution was founded; that they were publicly known and had impaired confidence in these judges, could not be denied. That it was known to Congress during the last session was acknowledged. It was not only known, but Congress acted on it. A bill was in progress before this House appointing the attendance of judges to particular districts—the members of two respectable States in which, by the bill, Judge Chase was ap-



pointed to attend, objected unanimously to that appointment, because they had not confidence in him; and the facts on which the resolution is founded were stated on the floor, upon which the House altered the bill and appointed another judge to that district. This was a strong testimony that Congress believed that this open expression of want of confidence in that gentleman was justified by the facts that had been stated. He said, that though he had not at that time a seat in the House, he had expected an inquiry to be made into the causes of this want of confidence at that time. Perhaps it was prevented by the shortness of the session.

It is expedient for the character of the gentlemen and for the public good; for the gentlemen themselves, if they are innocent or have acted on justifiable ground; it is necessary that their characters may be vindicated, and confidence in their public conduct restored. It is expedient for the public good, because if the judges are guilty in the manner stated—if they have justly lost the confidence of the people and of Congress, as it appears by the transaction of last session, one of them has done, the case ought to be examined and the citizens protected; for if he was unfit to preside on the bench for one district, he is unfit to preside in another. It is expedient, in order to secure the confidence of the citizens in the Government itself.

But precedents are called for by the gentlemen opposed to the resolution, and several of them contend that such special facts should be stated as would be unexceptionable ground of impeachment, before the inquiry is gone into. A gentleman from Vermont, (Mr. ELLIOT,) who argued yesterday in favor of postponement for further information on the subject, in the same argument said that he never would agree to the appointment of a committee of inquiry, until the charges were first stated and proved to his satisfaction. Mr. F. said he was astonished at this inconsistency. If the facts were first stated and established, appointing a committee of inquiry would be an absurdity. What would they inquire after but what they already knew? That gentleman and others, in order to defeat the resolution, gave the object of it an odious designation: they called it an inquisition and spoke of it in such terms as if it was the well known Spanish law of that name. The character of that court was too well known to the members of this House to require definition; it was sufficient to say that in it witnesses were examined without the knowledge of the party accused; that it compelled the accused to give testimony against themselves, and had authority to pass sentence of the most dreadful kind, without appeal. The gentlemen knew that no such thing was intended by the resolution. The character of the judges had been impeached in public opinion, by numerous citizens of all descriptions. Congress on that account gave a decisive testimony of want of confidence in one of them. The object of the resolution was to inquire whether there was a real foundation for this want of confidence and ill fame. If Congress did not make inquiry in such cases, who was to do it? It did not by

the Constitution belong to any other authority; every other method of proceeding would be as ingeniously objected to as the one proposed, by those who wished to prevent further proceedings in the case; denying the means of bringing forward impeachment, had the same effect as if the power of impeachment was renounced.

The power of this House has been asserted to be similar to that of a grand jury; this seems to be conceded on both sides, but though it bears a resemblance, it was not strictly so—it was more extensive. Grand juries were authorized to present such indictments or such complaint or information as were submitted to them by the Attorney General, or which they knew of their own knowledge. The attorney also inquires if there is probable ground for the complaint, and brings the witnesses before the jury, who examine them to establish the facts alleged; but this House has no officers authorized to make inquiry and bring forward the business in due form; therefore the House possess both the power of the Attorney General and the grand jury, with relation to impeachment; for where a power of decision is given, all the powers necessary to carry that decision into effect are implied. The making inquiry, procuring witnesses, or other testimony, and preparing the case in due form, is the object of the resolution; and if the House does not do it in this or some other such method, there is no other agent authorized to do it.

With respect to precedent and Parliamentary usage, Mr. F. said he had formerly examined many, but was not prepared to state them at this time, and did not think them necessary on this occasion. In all the examples of impeachment by the British Parliament, from the reign of Henry VIII, when Parliamentary power was reduced to a mere shadow, till the present time, when the Parliamentary power has been amply enlarged and established, and their proceedings become more uniform, there will be shades of difference found in all of them, arising from various circumstances; we have few precedents of our own, and of these few none of them apply to the present case. It is the Constitutional duty of this House to impeach, when impeachment is necessary, and of the Senate to decide on impeachments; but with respect to the manner in which each House should proceed, they are not trammelled by forms nor entangled in precedents.

There are, however, examples of proceedings both with the British Parliament and with us, as similar to the method now proposed as the various cases would admit. With ourselves, the case of the unfortunate Western expedition mentioned by my colleague (Mr. GREGG) yesterday, was much more to the purpose than the gentleman from Connecticut (Mr. GRISWOLD) was willing to admit. Mr. F. said he had the honor to be one of the committee of inquiry which sat on that subject a great proportion of two sessions. The expedition was too late in setting out to the Indian country; they were said to have been illy provided with necessaries, and long detained for want of them; a large proportion of the army

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were killed or taken by the savages, and all the stores with the army left. The citizens were discontented, and numerous complaints were heard, but none knew with certainty whom to blame; a committee was appointed to examine witnesses and report the testimony to the House, in order to discover the party who had been to blame. Some had charged it on the commanding General, others on the Secretary of War, and others on the Commissary of Military Stores, and these last endeavored to wrest the blame from themselves and fix it on the General. It was certain that a great misfortune had happened, but it was not certain that any officer was to blame; no charge had been made to Congress against any officer, yet Congress thought proper to make an inquiry, and it was not opposed on account of want of form, or want of precedents, by any of the friends of the parties. Towards the close of the first session, the committee made a concise report, referring to a great amount of testimonies. Some of the parties implicated by the report thought themselves injured by it, and it was alleged that other witnesses ought to be examined. Consequently, at the next session, the business was recommitted to the same committee, and as it was near the close of the last session of that Congress, before all the witnesses were procured and examined, and the parties heard by the committee, each of the parties wrote and delivered to the committee a large book of explanations and defence. The committee reported a large wooden box full of testimony, of original letters and instructions, and the three books of explanations and defence accompanied with some observations. It was not possible for that Congress to enter on the business, and the cause being of a transient nature, and the parties who applied for the second inquiry not wishing a disclosure of the testimony, the business was not afterwards entered on; but the mass of testimony, &c., is yet in possession of Congress. This, it is presumed, applies well in favor of the present resolution.

Gentlemen object to the resolution because of the indelicacy of implicating the character of a judge. They seem to believe the character of a judge to be sacred and immaculate. But are not judges men? Are they not men subject to like passions and like feelings as other men? Judges and other official characters voluntarily surrender a part of the rights they enjoyed in common with other citizens, in return for the honors and emoluments of office; others have a right to the privilege of trial by jury, in the decision of all charges against them; but public officers, by accepting of office, subject themselves, under this Government, to trial by impeachment. Subjecting judges to impeachment, indicates, unequivocally, a Constitutional opinion that judges would be even more liable to transgress than other citizens, and might transgress in a more aggravated manner than mere citizens. This mode of trial, however, in this country, is become almost a harmless thing; it is deprived of more than half its terrors. It does not reach life or property, but only the official character.

Mr. F. said he was a friend to the independence of judges, but that all independence in all Governments had its limits and restraints. It was not provided for the aggrandizement of the judges, but for the protection of the citizens. So far as it is applicable to this purpose, it is necessary, but any further, it is injurious and subjected to restraint. Under no Government with which we are acquainted are the judges rendered so independent as that of the United States. In Britain, from which we have derived the mode of our judiciary, the judges were appointed during pleasure; till little more than a century ago, they were rendered independent by the Revolution Parliament for the security of the people against the encroachments of the Monarch, and the overbearing influence of a very powerful nobility, and for this purpose it was not only salutary, but absolutely necessary. But even with that boasted independence, that Judiciary is subjected to restraints and modes of correction not provided in the Federal Constitution. The judges are liable to be removed from office by the vote of both Houses of Parliament, without trial. They are liable to be removed, or their standing changed by act of Parliament. That Parliament, on whose act their independence depends, can repeal the act; the two Houses of Parliament can make and unmake their Kings. They are also liable, by an act of attainder, not only to lose their office, but their estate, the honor of their families, and even their lives.

The Judiciaries in all the States of the Union are rendered less or more independent, some are appointed for shorter and some for longer periods. In New Jersey, they are appointed for seven years; they were so in Pennsylvania formerly; since the revision of the Constitution they are appointed during good behaviour; they are, however, subjected not only to removal by impeachment, but also by the vote of two-thirds of each House, for any cause which the House do not think a sufficient cause of impeachment; but in the Federal Government there is no method provided for removing them for the most scandalous indiscretions or incapacity, as even when they may unfortunately be under mental derangement, except by impeachment, which is inapplicable to official crimes, and conducted with tedious forms. The power of impeaching being the only shield provided by the Government for the protection of the citizens from judicial oppression, and this House being the only Constitutional organ for obtaining information of official excesses, and bringing forward articles of impeachment, ought not to bind up their own hands from doing their duty, and this they will do if they reject the resolution now on the table.

But while the gentlemen consider the character of these judges so sacred that their conduct cannot be inquired into, notwithstanding such proofs of want of confidence in them, and that as a gentleman near me from South Carolina (Mr. Lowndes) has said that he is afraid of impeachment, and grounds his fears on the incapacity or the unfitness of the members of this House, or be-

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cause the members of this House may abuse the power; Mr. F. asked, were not the members of this House selected and qualified for the discharge of this necessary duty? Were they not appointed by as respectable authority as the judges? Were they not under a solemn oath of office for the faithful discharge of this as well as every part of their high trust? And were they not protected by special privileges and protection during the discharge of their trust equally with the judges, and their stations as respectable as the judges? They are not only protected from civil actions, but are not subjected to impeachment for misbehaviour in office as the judges are. They are, in their official capacity, subjected only to the censure of public opinion. If this is true, it is improper, it is impolitic, for the members of this House to degrade their own character: it amounts to saying, they are not capable of discharging the trust they are solemnly bound to discharge, and ought not to have been invested with. He knew, however, that this was only introduced as an excuse for unwillingness. But the same gentleman adds, as a reason for opposing the resolution, that he is not acquainted with the history of the business. That is probably the case with him and others, especially such as had not a seat in the last session of Congress, or who resided at a great distance from the scene alluded to in the resolution. Admitting this to be true, the best and the only regular way to become acquainted with the history of the case, is to carry the resolution into effect—to have a committee appointed with such power as would enable them to procure such information as that gentleman and every other member could depend on. The gentleman's objection, in fact, is one of the strongest arguments in favor of the resolution. The gentleman from South Carolina has, however, offered one other objection to the resolution, which merits some notice. He has said that if a committee is appointed for the object proposed by the resolution, men of character and talents will not accept of appointments in the Judiciary. The solidity of this objection will be best examined by the test of observation and experience. It has been already mentioned that several States have appointed their supreme judges for short periods, and that others have vested the Legislature with the power of removing judges from office without impeachment, merely on their own opinion. Can the gentleman from South Carolina say—can any member on this floor, where all the States are represented, say—that these States are deficient in judges of respectability and talents? They cannot say so—there is no such complaint. The Judiciary of New Jersey, where the judges are chosen but for seven years, is as respectable, and the application of her laws as well brought home to the security and happiness of her citizens as they are in the States where judges are appointed for life. The same may be asserted with confidence of the State of Pennsylvania, before the revision of her constitution as they are since. There is this difference, however: where they have been appointed for limited periods there has been no impeach-

ments or removals, and generally, if not always, the judges were reappointed, and justice was well administered; but since they have been appointed for good behaviour, there has, at least in Pennsylvania, been both, and more complaints of inattention, expense, and delays, in the administration of justice than had been formerly. Many of the judges, however, are very respectable, and enjoy a high degree of confidence, but not more confidence than they did before the change of the constitution. There has been no attempt to remove or impeach the judges of the supreme court of that State.

To inquire into the conduct of the judges when confidence in them is evidently wanting, is the only true way to secure the respectability of the Judiciary. If that necessary confidence is withdrawn without cause, an official inquiry will restore confidence and the usefulness of the judges. This observation is supported by precedent and parliamentary usage. In that country from which precedents are so frequently sought, one precedent offers itself to recollection. In the year 1730 a committee of the British House of Commons was appointed to examine the jails. In the course of examination, the committee discovered that Sir Robert Eyres, Chief Justice of the Common Pleas, a judge of very respectable character, was suspected, not of tyranny on the bench, or of putting any man's life in jeopardy, but of having held an improper correspondence with a person confined for crime or misdemeanor, and this suspicion chiefly supported by anonymous letters. A committee of the House of Commons were appointed to make inquiry, and it was found, to the satisfaction of the committee and of the people, that the allegations on which the suspicion was founded were false, and the judge's character was vindicated and restored.

Mr. F. said this precedent applied well to the present case. If the judges mentioned in the resolution had done their duty, their characters would be vindicated by the inquiry, and the public confidence in their integrity restored; if they were guilty, and not entitled to confidence, they ought to be removed from office, and neither the one nor the other could be done unless the inquiry proposed was authorized.

He said that the inquiry was necessary to secure the purity, honor, and usefulness of the Judiciary department. If that House refused or neglected to exert the powers vested therein for securing public confidence in the Judiciary, unprincipled men would find means of recommending themselves to appointments, and would vitiate the streams where justice is expected to flow, and the citizens would be oppressed without the means or hopes of redress, and would feel the effects of tyrannical power in the administration of a Government which, in its other departments, was the greatest and best of any in the world. Let proper inquiries be made where they are necessary; let the character of judges unjustly charged be vindicated, and the vicious and unworthy be removed, and improper characters will cease to intrude themselves; their friends will not dare to

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recommend, and Congress will have confidence that the laws which they pass will be applied, agreeably to their genuine principles, to the protection and ease of the citizens; if we do not provide for this, we had better cease to make laws.

If virtuous men are appointed and the vicious discouraged, Congress may, from particular circumstances, be called on to make inquiries, but very rarely indeed to be employed in impeachments, (no men of real virtue and talents would refuse a seat on the bench for fear of inquiry or impeachment.) He said that the judges of the supreme court in the State he had the honor of representing, though they differed in political opinions, administered justice with such purity and diligence, that though some of them had been long in office, they enjoyed the confidence of the citizens, were in no danger of impeachment or removal by vote, and he believed would not shrink from inquiry if necessary. The more extensive the confidence of the citizens that was reposed in the Judiciary, the easier it would be to supply vacancies with men of character and talents. He said that among several other observations which occurred to his mind, with offering which he would not now detain the House, he had once thought of stating other charges against the official conduct of these judges, of which he had been well informed, but on due reflection he declined mentioning them, and thought it most for the public good to insist on the appointment demanded by a member on the responsibility of his own official character, and as a matter of right, and would do nothing that would impair the weight of the precedent that he hoped would be set by agreeing to the resolution as it stood.

Mr. F. said that having so long engaged the attention of the House he would conclude by observing, that as the case now stood it is proper for all the members to vote for the resolution; those that believed as he did, that there was a want of necessary confidence in those judges, and that this want of confidence was occasioned by their unauthorized and oppressive conduct, were obliged in conscience to vote for the inquiry; and every member who believed the judges to have done their duty, and that the public confidence is withdrawn from them without cause, are bound in duty to vote for the resolution, in order that the judges may have an opportunity to vindicate their character, that confidence in them being restored they may become useful to the public; therefore, in every light he could view it, he was convinced it was his duty to vote for the resolution, and would act accordingly.

Mr. JACKSON.—As, Mr. Speaker, this subject is novel in its nature, and may be important in its consequences, I presume there exists a disposition to hear the reasoning which any gentleman may be disposed to offer upon it. It is with this view that I rise to express my opinion in favor of creating a committee of inquiry. I consider this House as the grand inquest of the nation, whose duty it is to inquire, on a proper representation, into the conduct of every official character under the Government. Like a grand jury, we ought,

in my opinion, at the instance of any member, to send for all persons possessed of information calculated to throw light upon the conduct of any individual inculpated. A contrary doctrine would lead to the most unfortunate consequences. It would lead to this, that a minority would never be able to inquire into the conduct of a State offender, unless such inquiry were favored by the majority. As it is now contended that the inquiry is not a matter of right which any member may demand, but a matter of favor, to be granted according to the pleasure of the majority, it may be said that, if a majority favor an individual, he will always escape without an impeachment. But I believe otherwise; and that the Senate, like a virtuous judge, will not suffer an atom of prejudice or partiality to fall into the scales of justice.

But, say gentlemen, though it may be the duty of the House to impeach an officer, it is necessary that facts, warranting such an impeachment, should be first presented. This is not the course pursued in cases where a grand jury is called upon to act. If a murder is committed it is their duty to inquire, and diligently inquire, who is guilty of the act, and to send for all persons capable of giving information respecting it. Such is the practice. If it shall be required to furnish facts, as is urged by gentlemen, the consequence will be that offences of the highest nature will be committed with impunity. It has been observed that it is odious to undertake the task of a public informer. But what the Constitution and laws make our duty, so far from being odious, is honorable; because we thereby discharge a duty imposed upon us by our oaths, and because we show ourselves unawed by the vicious conduct of bad men. If the character of a public informer be odious, are we to expect that private individuals will come forward with affidavits? In such a case, to say the least of it, the duty would be of an unpleasant nature.

We have, in the course of this debate, been frequently called upon for precedents, and been told that, when found, they ought to be adhered to. In a country from which we are accustomed to draw precedents—England—common report has been considered as a sufficient authority for similar inquiries. We do not, however, ask for an inquiry in this case on common report, but on the declaration of a member of this House, made in his place. Suppose there was no such declaration, has not a common report, from Maine to Georgia, condemned the conduct of the judge in the case of Fries, and others, at Philadelphia, in the case of a grand jury in Delaware, whom he directed to inquire for seditious practices, and in the case of Callender, in Virginia? Has not the general sentiment of the country charged him with having, in these cases, abused his powers as a judge by tyrannizing over those who were brought before him? If we possess the right to inquire, on common report, surely we ought to institute this inquiry on the prevalence of so general a sentiment. To such an inquiry I would unhesitatingly agree, if the character of the Pres-

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ident were implicated, the opinion of the gentleman from Vermont to the contrary notwithstanding. I would likewise agree to make the same inquiry in any other case; because the inquiry would redound to the honor of the individual implicated, if innocent; and because, if guilty, he ought to be punished.

I am sorry my friend from Pennsylvania stated any facts, as I do not consider it necessary that the House should be acquainted with any facts to make this inquiry; and because I think the facts, stated as grounds of impeachment, are not such as will warrant an impeachment. I have always understood that it was the right of a judge to expound the law, and I have known frequent instances where the court have refused the counsel the liberty of discussing the law on points on which they have made up their minds. While I am free to declare that the conduct of the court in the trial of Fries is not, in my opinion, such as to require an impeachment, yet I am in favor of instituting the inquiry. But, say gentlemen, by the passage of this resolution, we shall censure the judge. I believe not. If I believed so, I would first require testimony; for I hold it a good principle, that no man ought to be condemned until he has been heard. In my opinion, this resolution will have no such tendency; as, if the judge has not been guilty of misconduct, the inquiry will redound to his honor, and as it is the duty of a virtuous man to demand an inquiry whenever charged with an offence.

Gentlemen, in opposition to this measure, say they wish to guard against suspicion. But suspicion has long since gone forth; has been heard and re-echoed from every part of the Union; and the only way of defeating it, if ill-founded, is to institute an inquiry, and if the character of the judge be innocent, to pronounce it so. I am surprised to find gentlemen, who profess a friendship for the character of one of the persons implicated, opposed to this inquiry, when they believe him innocent. I should suppose it their peculiar duty to call for the inquiry, that the accused might have an opportunity of proving to the world that his character has been assailed without cause.

Mr. R. GRISWOLD.—After what has passed on this floor, there can be no doubt that the gentlemen whose characters are implicated by this resolution will ardently desire an investigation of their conduct; and if, on this floor, we were merely to consult our own wishes, we should unanimously agree on an investigation. But this is not our duty; our duty is to take on this, as well as on all other occasions, a correct course; to take those steps only which are warranted. It is because I doubt, after considerable deliberation, whether this course is warranted, that I am opposed to it. What, I ask, is the nature of the resolution on the table? It contains no charges against the judges implicated; it only proposes to raise a committee to inquire whether their official conduct has been such as to justify the interposition of the Constitutional power of this House. If a committee of inquiry is raised, what will be their powers? One thing will certainly follow. They

will be clothed with a power to send for persons, and probably for papers. Is it consistent with principle to appoint a committee, which, from its nature, must be secret, with power to ransack the country in the first instance for accusations against the judges, and then for proofs to support them? Is this correct? Are gentlemen prepared to say so? to seek for accusations, and then for proofs to support those accusations, against high officers of the Government? For one, I believe that this course is not correct. I believe it to be dangerous. I agree with the gentleman from Vermont, that it operates in the nature of an inquisition. A committee will be raised to act in secret, first to find an accusation, and next to prove it. If there is now any accusation against the judges, let it be made; let it be made on this floor; and, as the gentleman from New Jersey has observed, let us ascertain, if true, whether it will be a sufficient ground for an impeachment. This will be a correct course, and it will be the only safe course. If, on the contrary, we proceed in the manner proposed, it will be attended with this consequence: at the commencement of every session we shall raise a secret committee, to compose an inquisition, to ascertain whether there are not charges against some public officer, and to search for proofs to justify them. Is the Government of this country founded on this principle? I know that this secret course of procedure is practised by the Spanish Government, and by some others, but I never thought that it would be the practice of this Government. When a charge is made against a public officer, it ought to be boldly made. It ought to be made here, and should be committed to writing. Instead of this being done, there is no charge made. The resolution contains none. It is merely calculated to raise a secret committee. Why? Because the gentleman from Virginia is of opinion that it is proper. Is his opinion, or the opinion of any other gentleman, to govern this House? Are we brought to this? I trust this is not the case. I trust that gentlemen will think it necessary not only to consider his opinion, but to form their own. What can gentlemen say, if they agree to this resolution? That they voted to investigate the conduct of two judges. Why? Because the gentleman from Virginia says it is necessary to investigate. Why investigate? Because the gentleman demands it. This is the language of that gentleman yesterday. Because a gentleman of this House gives his opinion of the course proper to be pursued on this occasion, it does not follow that we are to be governed by it. We may respect it; but we must respect our own opinions still more, if we faithfully discharge our duty. I am sensible that some facts have been mentioned by the gentleman from Pennsylvania, or rather, that that gentleman has heard a story; but it is mere hearsay.

I ask, also, how this formidable charge has rested to this day? When and where did the transaction, on which it is founded, happen? In Philadelphia, and in the Winter of the year 1800, when Congress were in session within twenty rods of the place where the court was held. The

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gentleman from Virginia, as well as other members on this floor, were then in the House. The case being, I believe, the only one in which there was a charge of treason, excited, in a considerable degree, the attention of members, many of whom attended the trial. How comes it, then, that this charge was not then made? If it shall be said the House did not interfere at that time because the criminal was lying under sentence of death, it will be recollected that, in 1801, Fries was pardoned. Why was not the inquiry then made? If it shall be said that it would have been imprudent to make it on account of the party then in power, why was it not made in the seventh Congress, when a change of men took place? How can gentlemen reconcile this great delay with the high regard they profess for the purity of the streams of justice, and for justice itself? For such is the respect they entertain for justice, that they have determined to bring to conviction this unjust and criminal judge. Gentlemen ought to account for this culpable neglect. It is impossible that they should have been ignorant of the trial of this man. It was not a sudden or a hidden thing, done in a corner; it was done in public, in the face of the Legislature, and yet it has slept to the present day. Under such circumstances, I submit it to the House, whether much respect ought to be paid to the hearsay of the gentleman from Pennsylvania. The very delay, and other circumstances attending this transaction, show that it is not of the serious nature contended. I therefore think that, if properly brought before the House, and suffered to rest upon proof, it would constitute no ground for impeachment.

As to the proposed form of proceeding, if we examine precedents, we shall find that it is not warranted by them. None mentioned compare with the case under consideration. The precedent in the case of Lord Bolingbroke does not compare with that. In that case the House of Commons raised a secret committee to examine the negotiations made for a peace. The committee was not raised to impeach Lord Bolingbroke, but to investigate the negotiations of the Ministry; and on the disclosure of facts, which took place on that occasion, the impeachment was grounded. Such, also, was the case in the instance of the Western expedition. The House appointed a committee vested with general powers to inquire into the causes of its failure, without particular reference to the conduct of any person.

If we turn our attention to British precedents, we shall find that a committee has never failed to investigate the official conduct of any person contemplated to be impeached. In the case of Hastings, Mr. Burke came forward and moved an impeachment directly. In all cases this course has been pursued in the British House of Commons. So far as we have had precedents in this country, a similar course has been pursued. In the instance of Governor Blount, the Executive transmitted documents to this House, which contained, as it was supposed, evidence of his guilt, they were referred to a committee to examine them, and also to determine whether it was proper to print them.

The committee reported that, in their opinion, they contained evidence of his guilt, and he was impeached. In the case of Judge Pickering, the same course has been pursued. The Executive transmitted documents to the House which contained, as it was supposed, proofs of misconduct, and the House proceeded to an impeachment. These precedents confirm the principle of those drawn from the practice of the British House of Commons. What course is now proposed? Without any charge against the judges, without any man saying they are guilty of any misconduct, we are about to appoint a secret committee, to determine whether any charges can be made, and whether any proofs to support them can be found. Although I am willing that the conduct of these gentlemen shall be investigated, for I am sure they must desire it, and although I have no objection to impeach them, if gentlemen wish it, and exhibit proper proofs on which to ground it, yet I cannot consent to pursue a course so improper as that now proposed. For this reason I am against the resolution, not because I am hostile to an investigation, but because I cannot consent to the appointment of a secret committee to search, in the first instance, for an accusation, and to look for proofs to justify it.

Mr. FINDLEY rose to explain. He said it was not the object of the House, in their investigation of the causes of the failure of the Western expedition, to make new arrangements, but to inquire into the conduct of certain officers who had directed it, viz: the Secretary of War, the Commander-in-Chief, and the Commissary.

Mr. NICHOLSON said, he happened not to be in the House yesterday at the moment when the resolution, under consideration, was introduced; and when he entered he found the gentleman from Connecticut (Mr. R. GRISWOLD) on the floor, who concluded his remarks by moving a postponement. Mr. N. did not think it then correct to offer remarks upon the main question, but as the resolution itself was now under consideration, and the subject of no common nature, he could not think of passing a silent vote upon it.

When he rose, to-day, for a few moments, on the motion to amend, by inserting the name of Judge Peters, he had then declared, and he now begged leave to repeat it, that whenever any member of the House should rise in his place and state that any officer of the Government had been guilty of official misconduct, he had no hesitation in saying, that he would consent to an inquiry. He cared not how exalted his station, or how far he was raised above the rest of the community; the very circumstance of his superior elevation would prove an additional incitement. Such, he said, was the nature of the Government, and so important the duty, in this respect, devolved upon the House of Representatives, that the conduct of the Chief Magistrate himself, as far as his vote could effect it, should be subjected to an inquiry whenever it was demanded by a member. The greater responsibility, the more easy and more simple should be the means of investigation. Were he, indeed, the friend, personal or political, of the officer

charged, and he believed that impeachment would be the result of inquiry, it was possible that his feelings as a man might induce him to forget his duty as a Representative, and urge him to resist the inquiry; but, were he convinced of his innocence, he would do all in his power to promote it, in order that he might stand justified to the nation and to the world.

Upon the present occasion, he begged that he might not be understood to say that the offence with which these judges were charged, was such as would warrant an impeachment. But, while he meant not to commit himself on a question of such high moment, he could not avoid expressing his astonishment that the conduct stated should not only be defended upon the floor of the House, but entirely approved; that gentlemen should venture to declare that the court acted strictly in the line of their duty, in refusing to hear counsel on a point of law which involved the guilt or the innocence of the prisoner. A man was charged with the highest offence against the Government, and, if guilty, was subject to the severest and most ignominious punishment recognised by our laws. High treason was the crime, and death the penalty. The Constitution declared that treason against the United States should consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. The framers of the Constitution intended to be as precise as possible in their definition of treason, they were anxious that no room should be left for doubt afterwards. They had seen to what an infinite variety of objects the crime of treason had been extended in England, and wisely confined it here to the only two offences which could be said to strike at the existence of the Government. The laws of the United States had declared that resistance to the execution of a law should only be considered as sedition, and had provided the punishment of fine and imprisonment. Fries was charged with resisting the execution of a law, and this offence the court determined to be treason, without hearing his counsel, and refused to permit them to address the jury on the subject, although the jury were the judges as well of the law as the fact. A resistance to the execution of a law, they construed to be treason, in the face of the act of Congress, which declared it to be a misdemeanor only, punishable with fine and imprisonment. These constructive treasons, he said, had been reprobated by the wise and good in all ages, and at a very early period in the history of English jurisprudence had received the pointed disapprobation of the Parliament. He adverted to what he called a wise and humane provision in the statute of Edward III., by which the judges were prohibited from declaring anything to be treason not so expressly defined by the letter of the statute. That the court had given such an opinion, was not now, however, the point of charge against them; that they extended the doctrine of treason beyond both the letter and spirit of the Constitution, was not now the foundation of the present motion. The accusation was that, in a case involving the life or death of a freeman,

the party was condemned without a hearing; that he was denied the assistance of counsel, which was secured to him by the Constitution of his country; that the right of the jury to decide both the law and the fact was refused; for it amounted to a refusal when the court would not permit the jury to be assisted by the arguments of counsel. He asked if gentlemen would consider it correct in a court, upon an indictment for murder, to prohibit the prisoner's counsel from contending before the jury, that the offence charged amounted to manslaughter only? Surely not. The question, in the case of Fries, was, whether the act of which he had been guilty amounted to treason, or to a misdemeanor? and this the court refused to suffer the jury to have an argument upon. He declared that, in all criminal prosecutions, the jury had a clear, undoubted right to decide, as well the law as the fact; they were not bound by the direction of the court; and that, in capital cases, it was a right which they ought always to exercise. But, in Fries's case, the law was not permitted to be brought into the view of the jury by his counsel; the court denied to the prisoner the assistance of counsel, which was secured to him by the Constitution, and he was condemned to an ignominious death, which he must have suffered but for the subsequent interference of the Executive. Mr. N. said, he had thought proper to make these remarks in answer to those gentlemen who had undertaken to pronounce the conduct of the court to be strictly correct. Although he did not mean to commit himself by declaring that this afforded sufficient ground for impeachment, yet he could not avoid saying, that the refusal to hear counsel in defence of the prisoner, did not meet his approbation.

The gentleman from Connecticut had doubted whether the present proceeding was conformable to principle. He thought that we ought to have the proof before we take any steps to procure it. Mr. N. begged leave to ask how proof was to be procured before inquiry was made? In what manner information was to be obtained before it was sought for? If a member had stated upon oath that a judge had been guilty of improper conduct, which would warrant an impeachment, the motion would not be, in the first instance, to inquire, but to impeach. If information was necessary, how was it to be procured? By sitting here, and writing for depositions to be sent in? Surely not. If a person was in the lobby, acquainted with all the facts, how were they to be communicated to the House? Was he to come to the bar, and offer a voluntary affidavit, or would it be correct to introduce him without any previous proceeding? In that case, would it not be necessary to declare, by a prior resolution, that we would commence an inquiry before testimony could be offered at the bar? If a member should state that a witness was at hand who could prove official misconduct in a judge, the correct course would be to introduce a resolution, declaring that the House would inquire, and it could not be resisted. What, he asked, was the proposed course? Instead of making the inquiry in the House, it



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was requested that it might be made by a committee. Instead of using our power to bring witnesses before us, it is proposed to authorize a committee to examine them. This would be more convenient and more proper. To bring them before the House would be attended with inconvenience, and unnecessary delay. He could not tell what the mode of proceeding before the House of Representatives would be, but, generally, he believed, it was the practice for a member to propound the question to the Speaker; the Speaker then to propound it to the witness; the answer to be made to the Speaker, and by him reverberated back again to the House. He asked, if the House would consent to this? If they would agree to a course of proceeding so tedious, so procrastinating, so evidently embarrassing? And yet this must be the course, unless that proposed was adopted.

It was said by a gentleman from Connecticut, (Mr. R. GRISWOLD,) that we were about to appoint a committee to ransack the country for an accusation, and afterwards to search for proof to support it. He complains that no accusation is made. Mr. N. averred that an accusation was made; it was made during the last session, and again repeated during the present. He asked, if it was no charge to declare that a judge had condemned a man to the most ignominious death, without a hearing; without allowing him those benefits which he claimed under the Constitution? Was it a trivial circumstance for a member of this House to declare that a freeman had been indicted for a high capital offence; that he appeared at the bar and pleaded not guilty; that his counsel were ready to prove the truth of the plea, but that the presiding judge had refused to hear them? If this was not a charge, and a charge, too, of a most solemn nature, he did not understand the meaning of the words. It was brought forward as boldly as the gentleman from Connecticut could wish, and the only question now was, in what manner shall we inquire into the truth of it? Shall we appoint a committee to make the inquiry by calling witnesses before them, or shall we dismiss it without investigation? Shall we give it the go-by, and suffer the character of the judges to rest under an imputation so heavy? Shall we proclaim our own dishonor, by publishing abroad that a heavy charge had been made, in the face of this House, against one of the highest judicial officers of the Government, and that we were too pusillanimous to notice it?

What the gentleman meant by comparing the proposed committee to the Spanish Inquisition, Mr. N. did not really understand. Did the gentleman wish to make a false impression upon the public mind? Was he anxious to cast an odium upon the proceeding by calling it an inquisitorial committee, and affecting to believe that it was to be clothed with the powers of the Holy Inquisition? The Inquisition had the power to seize the person of the party, to deny him all access to his friends, to confine him in a cell, and refuse him all assistance whatever; to stretch him on the wheel, and rack and torture him into confession. Does the gentleman wish to induce a belief that

this committee is to be clothed with the same powers? All committees appointed to inquire, might, to be sure, be called Inquisitorial, because they were to make inquiry, but the epithet of Spanish inquisition was intended to convey an idea totally incorrect.

The gentleman had asked why this charge had been suffered to rest so long? The facts upon which it was made were said to have taken place in 1800. Mr. N. thought it would be fair to reply to the gentleman that, possibly, he himself had, in some measure, accounted for the delay; the proper time had not before arrived. But if the act upon which the charge was grounded was criminal at that day, was it less so now? If Justice had slept so long, did it follow that she was dead? He hoped and trusted not. Though she had lain dormant till she was almost trampled to death, she was again roused to her accustomed vigilance, would pursue her victims, and drag them to punishment. The day of retribution, he hoped, was at hand.

The gentleman from Connecticut had declared that the proposed course was not warranted by precedent. He had noticed, but had not explained away, the precedents introduced by the gentleman from Pennsylvania, (Mr. FINDLEY.) His own precedent, derived from the impeachment of Mr. Hastings, instead of being in his favor was directly against him.

In that case it was not pretended that the proof was before the House of Commons. Mr. Burke had derived his information from certain papers relative to Indian affairs, which some years before had been produced and referred to a select committee. In the year 1786, Mr. Burke rose in his place, not as a member of that committee, and charged Warren Hastings with high crimes and misdemeanors. About the same time he presented a written paper containing a specification of these charges. But this was not the impeachment. The written paper stated that as Governor General of Bengal he had disobeyed the instructions of the court of directors; that he had acknowledged himself perfectly acquainted with their wishes, but instead of obeying, had used his utmost endeavors to defeat them; and much more of an important nature. This he moved might be referred to a Committee of the whole House, in order that an inquiry might be made; and there was not a single dissenting voice. He did not adduce the proofs in the first instance, but stated his opinions that Mr. Hastings's conduct had been criminal, and demanded an inquiry. The Commons of England did not hesitate—they instantly resolved to inquire. No one was heard to declare that there was no charge, because there was no proof. Witnesses were brought to the bar and there examined by a Committee of the Whole, in support of the charges; nor was there a motion to impeach until the testimony was gone through. On the contrary, the facts proved were reported by the Committee of the Whole, who likewise expressed an opinion that Warren Hastings had been guilty of high crimes and misdemeanors, and ought to be impeached. The impeachment therefore was not upon the

motion of Mr. Burke, but upon the report of a committee, who under the instruction of the House had made an inquiry.

What then, Mr. N. asked, was the course now proposed? His friend from Virginia had called the attention of the House to certain alleged misconduct of a judge, which had been stated by a member in his place during the last session. That statement had again been repeated in the House yesterday, not in writing, indeed, but in language so clear and in terms so unequivocal that none were so stupid as not to understand it. Like Mr. Burke, he asked that a committee should be appointed to inquire into the truth of the charge. The House of Commons had referred the subject before them to a Committee of the Whole, and the House of Representatives were moved to refer the subject before them to a select committee. A select committee was proposed, because it would be more convenient and more expeditious. If the subject might with propriety be referred to a Committee of the Whole, with equal propriety might it be referred to a select committee.

He had noticed this precedent, not because he thought it necessary to cross the Atlantic for authorities, but because the gentleman had introduced it as favoring his own doctrines. If there was already no precedent, in his opinion the House ought to make one; but he believed their own Journals would furnish them with one. At the first session of the seventh Congress, in a very few days after the House met, Mr. N. said he had risen in his place, and stated that he had seen in the public prints, during the preceding Summer, charges of a serious nature against an individual who had filled one of the highest stations under the Government, that he had misapplied considerable sums of public money, and was a defaulter to a very large amount. Upon this vague rumor, he had moved that the accounts of the former Secretary of State should be laid before the House. No gentleman then declared that it was necessary to have proof before an inquiry took place. No one dreamt that information as to facts was to be had, before it was sought for. Some indeed had asked how far the motion was to extend; whether it was to embrace all the other Secretaries of State? Others desired that the accounts from all the departments should be called for, and finally it was determined to let the resolution lie for a short time. In a few days after, on the 14th of December, he modified the resolution, in conformity with the wishes of several gentlemen, and it passed, directing that "a committee should be appointed to inquire and report, whether moneys drawn from the Treasury had been faithfully applied to the objects for which they had been appropriated, and whether they had been regularly accounted for," &c. A precedent more in point he thought could not be desired. The inquiry was produced, not upon proof, not even upon the suggestion of a member, but because a report as to the misapplication of public money had circulated through the public prints of the day. He might be told perhaps that this was an inquiry of a general nature. But general as it might be, it was directed at the conduct of individuals, and

under other circumstances might have furnished materials for an impeachment. The gentleman from Connecticut was a member of that committee, and Mr. N. asked him if he would pretend to say that it was a secret committee, as he had called that now asked for? Or was this only another attempt to impose upon the public?

Another precedent, he thought, might be furnished from the Journal, but he was unwilling to refer to it.

It had been said, too, that impeachments would be cheap if they were to be made upon the suggestion of a member. It appeared to him that the motion to inquire had been constantly mistaken for a motion to impeach. Did gentlemen suppose that an impeachment must necessarily follow an inquiry? It would seem as if they entertained a poor opinion of those whose conduct was the subject of discussion. But they ought to recollect that the impeachment could not be the act of any individual, nor of the committee, but of the House; and this, too, after all the facts were collected and presented, with the evidence to support them. If this mode was not to be adopted, he did not know any other manner in which an impeachment could be instituted, unless where the President thought the peace of the country or the revenue were endangered, and gave the information himself, as in the case of Governor Blount and Judge Pickering. Nor did he think this could affect the independency of judges, unless they were to be made independent of the laws, the Constitution, and the people.

Had it not been for the debate which had taken place on this subject, he should have imagined that the friends to the judge would have been the first to promote the inquiry, after it was moved for. If he was innocent, the inquiry ought to be wished for: after passing through the ordeal, he would come out like pure gold from the crucible. If guilty, no man ought to feel a disposition to screen him from punishment. Mr. N. could not avoid on this occasion alluding to the recent conduct of a judge in a neighboring State, upon whose character an imputation of the blackest nature had been thrown by a miscreant. That judge, conscious of his own rectitude, and disdaining to shelter himself from inquiry, demanded an investigation of the charge, and the consequence was an entire and honorable acquittal.

MR. ELLIOT.—When, in the course of a late debate in this House, it was observed that a member had advanced an anti-republican sentiment, the supposed imputation was repelled by the remark, that the gentleman to whom allusion had been made, had passed a political ordeal which few had experienced, and which ought to place his character as a republican above the reach of suspicion. I have myself suffered an ordeal of that description, under circumstances of gloom and depression which have fallen to the lot of but few young men of this country; and I am far from being confident that one ordeal only will fill up the measure of my humble fortune. A more anti-republican resolution than the one upon your table, sir, I think I never saw. Reflection has confirmed me in the

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opinion which I expressed yesterday, that it is unprecedented, unparliamentary, and tends to the assumption, on the part of this House, of a censorial and inquisitorial power over the Judiciary, unwarranted by the Constitution. The intention and object of the mover, however, must have been extremely different; the motive is pure and the object meritorious; but that honorable gentleman, with all his talents and discernment, has, in my opinion, fallen into an error. I believe it a sound principle, that no official measures should be taken to censure or criminate the conduct of a public officer, until facts shall be stated which amount to a specific and definite charge of misconduct. In the present instance we have no written allegations, and what is the amount of the verbal information with which we are furnished? A gentleman from Pennsylvania has stated in his place that *he has heard* that some one of the judges, whose name appears in the resolution, was guilty of improper and oppressive conduct, in the exercise of his judicial functions, on a trial for treason some years since. And a gentleman from Virginia has stated that he has received information which induces him to believe that the inquiry he demands will lead to an impeachment. Is it our duty to act upon the vague rumors of common fame, or the opinions of individual members?

The resolution under consideration has been materially altered this morning, and I gave my vote for the alteration, because I believed that the misconduct of a court ought not to be attributed to a single judge.

I feel it my duty, Mr. Speaker, to remark, that the information which is possessed by the members of this House, respecting the conduct of those judges, is extremely contradictory. No gentleman has told us that he possesses personal knowledge of the misconduct imputed to those officers; and I possess information on the subject, derived soon after the transaction, from a source which I considered as authentic, and which produced so deep an impression upon my mind, that I should scarcely abandon my belief of its authenticity, even from the general recollection of persons who were present at the scene. I understand that the judges did nothing more or less than decide a legal question in a legal manner. They did not interdict the counsel for the prisoner from examining a question of law, but they restricted them to what they considered as their legal and Constitutional limits. They told them that the Constitution of our country had clearly and explicitly defined the crime of treason, and confined them to the plain field of the Constitution, inhibiting them from a resort to British authorities to prove that to be treason which the Constitution of our country had not made treason, or to prove that what our Constitution had made treason, was not recognised as such by foreign precedents. This statement may be incorrect, and, if it be correct, the conduct of the judges may have been improper and severe, but it cannot justify an impeachment. And if the court went farther, interrupted the counsel for the prisoner, informed them that it was

the province of the court to determine points of law, declared that their opinion was fixed upon those points, and even forbade the counsel to prolong their arguments upon them, it might still be questionable whether the conduct of the court rendered its members liable to impeachment. A venerable gentleman from Pennsylvania, (Mr. FINDLEY,) who has long been in the service of his country, has been incorrect in stating that I had observed that I would never go into the inquiry without evidence; that incorrectness must have been unintentional; if I used an expression of that description, it was a *lapsus lingue*; but I am confident that I said, and I am certain that I intended to say, that I thought it improper to institute the inquiry until some fact or facts should be stated as a ground of accusation. A gentleman from Virginia (Mr. JACKSON) has told us that common fame is sufficient ground for impeachment in Great Britain. That gentleman has not adduced his authorities for this proposition, and, had he adduced them, I am confident they would not have answered his purpose, when contemplated in all their bearings, when examined with all their qualifications. The same gentleman also observed, if I understood him correctly, that were he satisfied that the conduct of the judges, in the case alluded to, was legal and correct, he would still vote for the inquiry. To me this declaration appears extraordinary. Why vote for an inquiry when satisfied that no criminality existed?

A gentleman from Pennsylvania, (Mr. SMILIE,) who contends that there is no necessity for precedent in the present instance, as we are competent to form precedents for ourselves, has yet thought proper to explore the books for precedents, and has presented us with the result of his labors. To guide our conduct on the present occasion, we are referred to the case of the Earl of Strafford, over whose tomb genius and virtue love to mourn, and will mourn in future ages! It cannot be possible that that gentleman wishes to recommend for our imitation that flagrant perversion of every principle of law and justice, that cruel catastrophe! A gloomy and terrible precedent, one of the most dark and disgraceful in the British annals, and utterly unsusceptible of application to the principles of a Republican form of Government. The gentleman from Maryland, (Mr. NICHOLSON,) to whom I listened with peculiar pleasure, and who has certainly displayed ingenuity, has been equally unfortunate in his selection of precedents, and in his application of them to the case under consideration. He has cited cases, which, by his own statement, militate against the principles he assumes. We are first presented with the celebrated case of Warren Hastings. In that case, a member rose in his place, and after accusing Hastings of high crimes and misdemeanors, exhibited specific charges of misconduct, in consequence of which an inquiry was instituted. Here is a solid basis, and the very basis which is wanting on the present occasion, upon which to erect the superstructure of impeachment. That gentleman has also mentioned a resolution intro-

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duced by himself in a former Congress, which was expressed in general terms, and directed to general objects, and of course was perfectly dissimilar to the present one.

Allusions have repeatedly been made to a remark of mine in the debate of yesterday, that this House is the grand inquest of the nation. It has been asked, if a grand jury were informed that a murder has been committed, would they not send for evidence to ascertain the fact? We are the grand inquest of the nation, and our practice ought, in many respects, to be analogous to that of grand juries; but in becoming that inquest, we do not entirely lose our deliberative and legislative character. I believe it would be descending from the dignity of our station, to listen to the murmurs of general rumor, and seek for guilt. I have heard that one of the judges whom we are called upon to censure, when in the exercise of his judicial functions, inquired of a jury, "Is there no sedition here? Are there no seditious newspapers within your jurisdiction?" I am ignorant whether this report be or be not founded on fact. But if it be true, let me ask, shall we not pursue a similar course by adopting the present resolution? Shall we not authorize a committee to inquire, Is there no judicial guilt abroad in our land? Is there no latent inquiry in some unexplored corner of our country? A grand jury is sworn diligently to inquire, and true presentment make, of all such offences against the laws of the land, as shall come to their knowledge. Have we taken such an oath? Are we under such obligations? And are we not about to attach to ourselves that character which gentlemen tell us is so odious, the character of common informers? I am under no fears that the stream of justice, which ought to be so pure, will become turbid, from a want of accusers, when our judges shall be guilty of crimes. When our courts shall become corrupt and despotic, patriotic motives will induce our citizens to bring forward accusations. I am also sensible of the propriety and force of the observation of the gentleman from Connecticut (Mr. R. GRISWOLD) that the trial in question was a transaction of great publicity, and all its circumstances must have been known to thousands of our citizens. This induces me to believe that the conduct of the court was not so oppressive and despotic as is now represented. Why has this awful charge slumbered so long?

One or two remarks upon the allusions that have been made to my observation, that we are about to assume censorial and inquisitorial powers, and I will dismiss the subject. What is the language of the resolution? Without the allegation of a single fact, it constitutes a committee to inquire whether the judges have not so acted in their official capacity as to render necessary the interposition of the Constitutional powers of this House. The expression is unequivocal; the allusion to the power of impeachment is perfectly obvious. This is what is called a *petitio principii*; it takes for granted, at least in some degree, what remains to be proved, that the conduct of the judges has been improper and illegal. Else why adopt a language which implies suspicion

and censure? But gentlemen are alarmed at the epithet inquisitorial, and imagination teems with the horrors of the Spanish Inquisition. If the creation of this committee be an unauthorized act, if in creating it we transcend those limits which we ought, by a reasonable construction of the Constitution, to set to our own powers, it instantly becomes inquisitorial in its nature and in its operation. We must delegate to it more than general powers. We must authorize it to send for persons, and probably for papers and records. The proposition is hostile to republican principles, and, as a republican, I cannot give my vote in its favor.

MR. HOLLAND.—When I before addressed the House on this subject, I had no doubt of the charge being sufficiently explicit to found an inquiry into the conduct of the judges. My only doubt was whether it was proper to proceed without affidavit. Since yesterday, I have reflected on the course pursued in similar cases; and I will state to the House the proceedings adopted in two or three cases in the Legislature of which I was a member: In the year 1796, a charge was preferred against certain judges of the State of North Carolina for illegally extending their power. A committee was appointed to inquire into their conduct, and the result was, that the judges had exiled certain persons from the State. The proceedings did not go so far as an impeachment; for the judges wrote an explanatory letter, which gave satisfaction, and they were acquitted with honor. The other charge, to which I have alluded, was against the board of army accounts; that also was referred to a committee. The last case is the most recent. A suspicion existed that the Secretary of State had been guilty of misconduct. A letter had been received by the Governor from some citizens to that effect; in consequence of which, and of other corroborating circumstances, the Legislature appointed a committee of inquiry, of which I had the honor to be a member. That committee was empowered to send for persons and papers. There was no specific charge, but an impeachment was contemplated, if the officer should appear to be guilty. The Secretary was brought before the committee, who examined him on oath, and reported the existence of frauds much more extensive than had been imagined; in consequence of which the land office was shut up, and the Secretary notified that articles of impeachment would be exhibited against him. But the late period of the session not then admitting of a trial, it was postponed to the next General Assembly. At the succeeding Assembly the officer resigned, and superseded the necessity of an impeachment. He was afterwards indicted at common law. These precedents, drawn from the proceedings of the Legislature of the State which I have the honor to represent, induce me to think that the course proposed is proper, and I shall, accordingly, vote for the appointment of a committee of inquiry.

MR. DENNIS said, he did not rise for the purpose of entering into an investigation of the merits of the question, but principally for the purpose

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of stating, in a few words, what appeared to be the difference between the friends and the opponents of the resolution. He had never experienced, on any occasion, a stronger conflict between inclination and duty than in the present instance. On the one hand, he was confident that, after the official conduct of the judges had been thus publicly implicated, it must be desirable to them that an investigation of the facts charged against them should take place, and it seemed to be a duty due to those gentlemen, that they should have an opportunity of being confronted with their accusers. On the other hand, we owe to the laws and Constitution, as well as to those considerations which must always govern in the establishment of important precedents, a paramount duty, which appeared in this case irreconcilable with the indulgence of individual considerations. The true difference between the advocates and the opponents of the resolution appeared to be this: That the one thought it a proper procedure to raise an inquisitorial committee, without any definite or assignable object, and without stating in the resolution any specific charge. The other did not demand, as it had been supposed, the production of all the evidence in the outset of the proceeding, which might be necessary in the ulterior stages of the transaction, nor that precise and technical specification of the charges which might be proper in articles of impeachment, but only required that some fact should be stated, or charge alleged, as the basis on which to erect a committee. He believed, to create a committee by resolution, with general inquisitorial powers, without specifying any charge, or stating any reason in the resolution for the proceeding, was without precedent, and might become an engine of oppression. In order to satisfy the friends of the resolution on that, he did not wish to avoid that investigation which might be founded on proper principles, and which he believed, after what has been said, is rather courted than avoided by the judges in question. He would beg leave to read, in his place, the form of a resolution, such as he supposed ought to be the ground-work of a procedure like this:

"Whereas information hath been given to the House, by one of its members, that, in a certain prosecution for treason, on the part of the United States, against a certain John Fries, pending in the circuit court of the United States, in the State of Pennsylvania, Samuel Chase, one of the associate justices of the Supreme Court of the United States, and Richard Peters, district judge for the district of Pennsylvania, by whom the said circuit court was then holden, did inform the counsel for the prisoner that, as the court had formed their opinion upon the point of law, and would direct the jury thereupon, the counsel for the prisoner must confine themselves to the question of fact only. And whereas, it is represented that, in consequence of such determination of the court, the counsel did refuse to address the jury on the question of fact, and the said John Fries was found guilty of treason, and sentenced by the court to the punishment in such case, by the laws of the United States, provided, and was pardoned by the President of the United States."

He said he read this by way of argument, to show that the present resolution ought to be rejected, and though he would not offer it himself, in case the resolution before them should be rejected, yet he would pledge himself to vote for such an one, if the gentleman from Virginia or any other member would offer it. The resolution which has been read, embraces all the facts stated by the gentleman from Pennsylvania, which contains the only charge that has been exhibited. But if any gentleman possesses a knowledge of any other facts or charges, let him specify them, and he would be willing to vote for an extension of the powers of the committee to them also; for he did not wish to confine the inquiry to the specific charge stated by the gentleman from Pennsylvania, if other gentlemen had charges to exhibit, and would state them in the resolution. If they would specify a charge or charges of a serious nature, and give us any reason to believe them true, although originating from hearsay evidence, he would vote for the inquiry proposed; and he begged that he should be understood as objecting rather on the ground that no charge had been specified, than on the ground of incompetent evidence. The vague charges verbally communicated by the gentleman from Pennsylvania, and none of which are reduced to writing, give no grounds of procedure; not only because, if true, they constitute no cause for impeachment, but because they are not specified in the resolution.

The motion was then further amended to read as follows:

*Resolved,* That a committee be appointed to inquire into the official conduct of Samuel Chase, one of the associate justices of the Supreme Court of the United States, and of Richard Peters, district judge of the district of Pennsylvania, and to report their opinion whether the said Samuel Chase and Richard Peters, or either of them, have so acted, in their judicial capacity, as to require the interposition of the Constitutional power of this House.

Mr. SPEAKER stated the question, that the House do agree to the said motion, as so amended, when an adjournment was called for and carried—yeas 61, nays 43.

SATURDAY January 7.

Mr. NICHOLSON, from the committee appointed on the memorial of Alexander Moultre, agent for the South Carolina Yazoo Company, and of William Cowan, agent of the Virginia Yazoo Company, made a report, going considerably into detail, and concluding with a resolution adverse to the prayer of the memorialist. Referred to a Committee of the Whole on Monday.

#### OFFICIAL CONDUCT OF JUDGE CHASE.

The House resumed the consideration of the question depending yesterday, at the time of adjournment, "that the House do agree to the motion of the fifth instant, as amended by the House, for the appointment of a committee to inquire into the official conduct of Samuel Chase, one of the associate justices of the Supreme Court of the

United States, and of Richard Peters, district judge of the district of Pennsylvania."

Mr. J. RANDOLPH expressed his regret that the attempt which he had made yesterday, to reply to the very personal allusions of a gentleman from Connecticut, (Mr. GRISWOLD,) whom he was sorry not to see in his place, had, by the adjournment, proved abortive. Such was his regard for the opinions of the House, that he should always, when called upon from a respectable quarter, justify any conduct which he deemed it proper to pursue in its deliberations. He felt it due to the respect in which he held the Chair and those around it to reply to the remarks of the gentleman from Connecticut, and this consideration alone could have induced him to offer anything in addition to what he had already advanced in favor of the motion. He should otherwise have left the resolution to its fate. In that fate he did not feel himself personally implicated. If it should be rejected, he would be satisfied in having done his duty, and the House, he supposed, would feel equally satisfied in having discharged theirs. It was asked, where was the mover of this resolution at the time when the alleged misconduct took place? Did it not, said the gentleman, pass under their own eyes? Were not their deliberations held on the very spot? and why had the motion slept until this day? He hoped he should be permitted to say that it did not pass under his eyes, although he knew, at the time of the condemnation in question, he did not become acquainted with the circumstances under which it took place until long after their occurrence. It was true that the deliberations of Congress were then held in Philadelphia, the scene of this alleged iniquity, but, with other members he was employed in discharging his duties to his constituents, not in witnessing, in any court, the triumph of his principles. He could not have been so employed. It would be recollected, that the information given by the gentleman from Pennsylvania formed the ground-work of his proceedings, and he asked whether it was more the duty of the mover of the resolution to have brought it forward than every other member of the House who was a witness of the statement made by that gentleman? This information, of an official nature, given by a member in his place, of a transaction in open court, and which it was the duty of them all to have noticed, had been called a story related on hearsay; a rumor of an affair which had happened in a corner; and the House was asked if they would take such evidence as ground of proceeding, on the *dictum* of any one member, however great their confidence in him might be? If he really felt that respect for the House which the gentleman from Connecticut had professed, he would not have insulted their understandings by such language. He would not have stood up, as *amicus curæ*, to prevent their being precipitated into absurdity and injustice by an influential member of their body. That, however, was the station which the gentleman had assumed, and he hoped the duties of it would be discharged with the fidelity which they required. After clothing

himself with this character, Mr. R. said he expected to have seen him at his post—he regretted that he did not see him there, and that his duty did not permit him to withhold the observations which he was compelled to make. Whilst, however, the gentleman was engaged in discharging the new and important function with which he stood self-invested, he seemed cautious of replying to the masterly statement of his venerable friend from Pennsylvania, and which he believed had remained unanswered because it was unanswerable. It must, said Mr. R., be a subject of high gratification to us all, and I congratulate this House upon it, that age has not yet dimmed the lustre of those talents which have so long presided in the councils of this country. And if the time shall come when we are to resign our understandings and place ourselves under the direction of an individual, I hope to be permitted to range myself under the banners of that tried patriot, and not under those of the gentleman from Connecticut. In the same spirit with which he challenged the confidence of the House, as a friend unwilling to see them led into error and absurdity, that gentleman had endeavored to alarm their pride by representing the motion as a demand made upon them. It was so. It was (if he might so express it) a writ of right, not of favor—and as such he demanded it, as such he urged it. But an objection was taken that no act of misconduct had been alleged. With his friend from Maryland he would say that, a fact of the first importance had been adduced, on which he was sorry his friend had not dwelled longer. It could not receive too much attention. On a trial for life and death, the jury, who were the Constitutional judges both of the law and fact, were deprived of the right of a discussion of the point of law, "what constitutes treason?" The rights of the jury and of the accused were equally invaded. It was conduct not dissimilar to this, in a case of libel, which drew forth from the English Parliament the famous declaratory bill of Mr. Fox. Lord Mansfield had laid down the doctrine that the jury had a right to decide only upon the bare facts of printing and publishing, and not upon the question of guilt, which was compounded of the law and the fact. This produced the declaratory act, which passed a strong censure on the practices of courts—since it did not amend or alter the law, but declared what the law was—and established the point resisted by the court, that the jury was the judge both of the fact and of the law. If, then, on a question of criminal law, where the punishment was only fine and imprisonment, the conduct of a judge was deemed highly reprehensible in encroaching upon the rights of the jury, what shall we say of him who usurps those rights in a case of life and death, in a case of treason? This denial to the prisoner and the jury of the right of having the point of law discussed, seemed to be the first step towards assuming those powers in cases of treason the exercise of which, in case of libel, had drawn down upon the English courts the censure of their Parliament. Would the gentlemen say this was nothing? Would he af-

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firm that if a man were under trial for murder, the court would be justified in saying to his counsel, You may, if you can, disprove the fact, with which the prisoner stands charged, but you shall not endeavor to show that it does not amount to the crime with which he stands charged? If you admit the killing you shall not argue the point that such killing does not constitute murder. Would the gentleman contend that treason is better defined than murder? What is murder? Killing with malice aforethought; can any definition be clearer? What is burglary? Breaking in during the night. What is treason? The Constitution defines it as levying war against the United States; adhering to their enemies; giving them aid and comfort. But what had definitions to do with the case? Because murder was defined, had counsel ever been stopped in an attempt to show that the killing with which their client stood charged was not a killing with prepense malice, a killing which constituted murder? What was more common than to see the facts admitted, and the crime not only denied, but disproved to the satisfaction of the jury; and upon what principle shall counsel be arrested in the attempt to show that the facts charged in an indictment for treason do not amount to such a levying of war, or an adherence or aid to such enemies as would constitute treason? Mr. R. said that the fact mentioned by the gentleman from Pennsylvania was of a remarkable nature. He had never heard of a similar proceeding, and he rejoiced that another instance of so black a nature could not probably be furnished by any tribunal in this country.

The gentleman from Maryland, (Mr. DENNIS,) however, had entirely abandoned the ground taken by his friend. He agrees that there is a charge of an important nature exhibited, and if it was incorporated into the resolution, and the inquiry confined to that subject only, he would vote for it. The object of the one gentleman was only to confine the inquiry, whilst that of his friend was to deny it altogether. He could not thank the gentleman for his liberality. He would have what he asked or nothing. He would never consent to confine the inquiry; if it could not be full and free, let it be denied.

The gentleman from Maryland had, with very little dexterity, endeavored to confound the resolution of inquiry with the articles of impeachment which may follow from it, and said that if the House would consent to confine the inquiry to any particular charge he would vote for it. It was true that after articles of impeachment should have been exhibited against the accused, the House would not be permitted to prefer any new accusation, or to adduce testimony to prove any guilt other than that which was charged in those articles. In the same manner as when a criminal was indicted, evidence would not be suffered to be brought forward to prove any act of criminality not contained in some one of the counts of the indictment. But would gentlemen persist in confounding things so entirely different, as to confine an incipient inquiry by the same rigid rules which would govern a criminal trial? It was trifling

with the judgment of the House. The gentleman was eager for inquiring, but the charge must be incorporated into the resolution, and the inquiry confined to a specific point, before he could be brought to consent to it. Whatever other misdemeanors might come to the knowledge of the committee in the course of the investigation, he would not agree to have them reported to the House. And at the same time he told them of the struggle between his inclination and his sense of duty—his inclination as a friend of the accused to grant the inquiry, his duty as a member of the House and a friend of justice to refute it. Mr. R. was sorry to find the gentleman in this awkward predicament; he regretted that it was out of his power to gratify him by narrowing the inquiry. This, his duty would not suffer him to do. He hoped, however, the strength of the gentleman's constitution would carry him through the arduous struggle in which he was involved, by his wishes on the one hand, and his principles on the other.

Whilst so much was said on the subject of precedent, he hoped he might offer a few cases to their consideration. He did not come to the House armed with precedents. Neither his health nor leisure permitted him to search for them. Gentlemen of greater industry, and who attached more importance to them than himself, had furnished him with them. For his part he thought precedents had nothing to do with the case, but for the sake of those who thought differently, he would show the course which he advocated was not destitute even of their support. Here Mr. R. referred to Mr. Hatsell's precedents. "On the 21st of April, 1626, Mr. Glanville, from the select committee appointed to consider of the charges against the Duke of Buckingham, reports that, they desire the House will resolve whether common fame is a ground for this House to proceed upon?" It is resolved to consider this the next day. After a long debate the House resolve that, "common fame is good ground of proceeding of this House, either to inquire of here, or to transmit the complaint, if the House find cause, to the King or Lords."

Mr. R. begged to call the attention of the House to the opinion of a gentleman, delivered during this debate, to which he must be permitted to attach more importance than to that of the gentleman from Connecticut. When he mentioned the name of Selden, he believed he should stand justified in the opinion of the gentleman himself, and in that of his warmest admirers. "These cases (said Mr. Selden) are to be ruled by the law of Parliament and not by the common or civil law." Mr. Littleton says, "this is not a House for definitive judgment, but for information, denunciation, or presentment, for which common fame is sufficient." Mr. Noy says, "There are two questions—first, Whether a common fame? Second, Whether this fame be true? We will not transmit without the first inquiry: but without the second we may; for peradventure we cannot come by the witnesses; as if the witnesses be in the Lords' House."



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Again, "on the 16th October, 1667, the House being informed "that there have been some innovations of late in the trials of men for their lives and deaths, and in some particular cases restraints have been put upon juries, the matter is referred to a committee." This case (Mr. R. said) was precisely in point. "On the 18th of November, this committee are empowered 'to receive information against the Lord Chief Justice Keeling, for any other misdemeanors besides those concerning juries." Thus on a particular fact, innovation in trials for life and death, a committee was raised, and yet they were not confined to the examination of that single charge, but empowered to inquire generally into the misconduct of the judge. A stronger or more pointed precedent could not be conceived.

By the Constitution, Mr. Randolph said, that House was vested with the sole power of impeachment. How this power was to be exercised must depend on their discretion, and on no other law or principle whatever: for "these cases are not to be ruled by the common or civil law, but by the law of Parliament" That law of Parliament it remained with them to establish. It could not be matter of surprise that he, one of the leading principles of whose politics it was to support the weight of that branch of the Government, and to be jealous of Executive influence—it could not surprise any one, that he should exert himself in behalf of the Constitutional rights of that House. When he saw the importance which was attached to precedent, he was more than ever solicitous for that which they were then about to establish. He trusted that they would not consent to abridge the power with which the Constitution had invested them—to reduce it below the standard which the English House of Commons had fixed as the measure of their own power in similar cases. A time might come when a wicked President and his flagitious Ministers might so conduct themselves in office, as to make every man regret the proceedings of that day, in case they should suffer their power to sleep. The refusing to exercise it, then, would hereafter be adduced as a denial of its existence. Such might be the circumstances of the times, that no private man would dare to step forward with a specific charge against the Executive. If they should deny an inquiry without a specific charge, they would do all in their power to screen such a President and such Ministers at a future day. It had been remarked that, in this Government, an officer found guilty, on an impeachment, could not be punished capitally. The sentence could only remove him from office, and disqualify him, for ever after, from holding one under the United States. If, in a country where the accused may be brought to the block, free, unfettered inquiry is warranted against any rank however exalted—would it be denied here, where the punishment was comparatively light? Should they hold the other departments of the Government more inviolable than they were considered even in England? Would they afford to a criminal, Executive or Judiciary, a shelter denied by the laws of that Government? He hoped they would

not. He trusted that they would give an example of their readiness to bring every offender to justice, however great might be his station.

Mr. GRIFFIN.—I had hoped that no subject would have been agitated during this session which should have interrupted the tranquillity or disturbed the harmony of this House, so necessary to the faithful and correct discharge of our public duties; but, sir, I perceive, from the turn which the debate upon the resolution now before the House has taken, that sensations have been excited which I fear it will be difficult to allay.

The proposition now before the House, nursed with so much secrecy, and forced on us so suddenly and unexpectedly, comes in such a questionable shape, that I must beg the attention of the House for a few moments while "I speak to it."

What, sir, does the resolution demand of us? That a committee be appointed to inquire into the official conduct of Samuel Chase and Richard Peters, &c. But how is this inquiry to be conducted? Are there any data by which the committee are to be guided? Is there any specific charge to which their attention or inquiries are to be directed? None. And who, sir, before this enlightened day ever heard of a committee of inquiry being raised, without possession of a single subject to direct or guide the inquiry? What, sir, erect an inquiring committee vested with all the powers of a Star Chamber, and yet assign them no specific objects of their duty! But, sir, the official conduct of these judges has given offence—and are we now, sir, to probe and search the whole judicial lives of these gentlemen, for causes of complaint and censure? Are the records of the States of Maryland and Pennsylvania now to be ransacked, for evidences of their guilt and cause of impeachment? I never have and never shall deny the right of this House, to inquire into the conduct of public officers—but, sir, if the honorable mover of the resolution is serious—

[Here Mr. RANDOLPH interrupted, and desired the gentleman to explain his meaning by the word serious.]

Mr. GRIFFIN continued. I will answer the gentleman: my meaning is, that if the gentleman believes there are just grounds for impeachment—if he is in possession of information or facts, let him declare them, and if they appear to my mind to be sufficient whereon to ground an impeachment, let him demand it and I will join with him. Let him specify the instances of malfeasance of which these judges have been guilty, and I will unite with him—let him declare the malconduct of these public functionaries, and I will cordially co-operate with him. If these judges have travelled beyond the line of their duty, if they have wantonly exceeded the limits of their power, I will aid in the infliction of such punishment as they may merit; but, sir, I cannot, I will not, in this indirect manner, wound the feelings or censure the characters of men, holding high responsible offices under your Government. Could I induce myself to believe that the course now proposed to be pursued is correct, I will gladly give

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it my assent; but for reasons very different from those the advocates of this measure adduce: could I deem it correct I would support the resolution because I believe the characters implicated therein will safely pass the ordeal preparing for them, and that the inquiry will redound to their honor. I would cheerfully support the resolution, because, by the impeachment which I predict will follow, an opportunity will be offered to remove that load of unmerited calumny under which the Federal Judiciary of the United States have too long labored, and with which our public prints have been long filled. But the course is incorrect—the measure in its present shape appears to me to be fraught with incalculable mischief to our country, and I never will assist in the establishment of a precedent which may at some future day be made an engine of persecution, as “wicked as intolerant.” Mr. Speaker, let me ask of you, sir, to remember the consequences which may flow from the adoption of this resolution—let me conjure this House to reflect upon the dreadful effects which must arise to us, if, upon the bare assertion of a single gentleman, unsupported by any direct allegation, a committee of this nature shall be raised, a precedent of this kind established, what public character will be safe? nay, sir, how soon may not we ourselves feel its baneful influence? Far be it from me, sir, to impute to the honorable mover of the resolution any impurity of motives. I believe his conduct has proceeded from a consciousness of duty, and from a similar consciousness of duty I must oppose the measure. I cannot deny the power of this House to adopt the resolution upon your table, but I beg of you to pause ere you take the fatal step, and do not, because “dressed with a little brief authority, play such fantastic tricks before high heaven as make e’en angels weep.”

Sir, I have endeavored to discharge what I conceived to be my duty upon this occasion, and when experience shall fatally convince us of the dreadful effects of the precedent we are now about to establish, I shall derive consolation from the reflection, that I lent my feeble aid to check the overwhelming torrent.

Mr. EUSTIS said, he did not view this subject in the same light with the gentleman last up; he did not see those awful consequences which he had pointed out. He hoped the time would never come, when an inquiry into the conduct of an officer of the Government should be deemed a subject of alarm in that House. It was the first principle of the Constitution, that every man was amenable to the Constitution and laws of his country, and however elevated any one might be, that he could not be raised above the reach of inquiry. The observations of the gentleman who had last spoken, and of others who had preceded him, were predicated on a principle that was not correct. If the resolution on the table was to impeach the judge, those observations would be relevant, but they were incorrect on the preliminary motion to inquire.

In making up, said Mr. E., my judgment on this subject, I have endeavored altogether to avoid

the inquiry, whether the officer implicated in this resolution, has so conducted himself as to require impeachment by this House. I have not accepted the opinion of the mover of the resolution, and I have excluded all the other information adduced in the debate; because I consider it as alone applicable to the question of impeachment, which is not now before the House. The question before the House is a very different one, and, in my opinion, it is plain and simple. What is it? It is that a committee be raised to inquire into the official conduct of a certain public officer. When a member of this House, under the obligations of honor, and the additional obligations of an oath, rises and takes upon himself the responsibility of moving an inquiry into the official conduct of a public officer, which can only be effected in virtue of the impeaching power of this House, which power it exclusively possesses, I view the request for an inquiry in the nature of an information laid before the House as the grand inquest of the nation.

When this proposition was made, the mind of every gentleman was naturally cast about for the situation of the officers in question. If it shall be the opinion of the House that their conduct is such as to afford grounds for an impeachment, it will be granted that it is an indispensable duty to make the inquiry. If, on the other hand, the House are of opinion that no testimony can be produced which will lead to an impeachment, then it is due to the officers to institute an inquiry. The object of inquiry is two-fold—arising from the duty to the people, and that due to the officer whose conduct is impeached. If gentlemen are of opinion that, in this case, there are no grounds for impeachment, then it is clear that the conduct and character of the officer ought to be vindicated, and the inquiry instituted to afford him the means. If they are of opinion that there are grounds for an impeachment, then the duty they owe to the people urges them to the inquiry. In the Constitution I find no excuse, no justification, on which to ground a refusal to institute an inquiry into the conduct of any public officer charged with misbehaviour.

To such an inquiry, what is objected? That the power may be abused. Indeed, the objection is, that it is abused in this instance. How abused? To argue from abuse of the power against the use of it, is no argument at all. If the House believe either alternative I have mentioned, and one or the other you must believe, it is their duty to make the inquiry. But it is said that the committee are to be clothed with power to send for persons and papers. Granted. That power is indispensably necessary. It is said their powers are to be inquisitorial. This is not true. Will not the committee be accessible by every member of the House, and what are their ulterior powers but to collect facts, and to express an opinion whether they afford grounds for an impeachment? That opinion they will eventually submit to the House, and, without its approbation, it will be settled.

It is further said that no specific charge is ad-

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duced, and if there were, gentlemen say they would vote for the inquiry. But if a specific charge were made, I ask if any member would be enabled to give a more enlightened vote than on the present resolution? I consider the general power to inquire as most important, and that it is the duty of the House, on such occasions as the present, to enlarge rather than to narrow the field of inquiry.

It is further said that this course of proceeding will discourage respectable men from accepting the offices of Government. But certainly every officer, from the President to the most menial, knows that he holds his office subject to inquiry, to impeachment, and to punishment, in case of criminality.

If the House do not pursue the present course, from what quarter are they to expect the origination of an inquiry? Is it to be supposed that it will come from the citizen, when his life and fortune are probably at the disposal of particular officers charged with misconduct. This line of inquiry ought, in my opinion, to be courted and encouraged; more especially in this instance, after the course which the debate has taken, and after specific charges have been adduced. The debate has given an importance to the inquiry, which its original merits may not, perhaps, have entitled it to.

When this subject was first introduced, it appeared to me novel, and that there were no precedents in point under the Federal Government. It is time that this precedent should be established. It is time that every officer should know that this House is ready at any time to inquire into his official conduct, if charged with misbehaviour; and instead of declining the inquiry, in this instance, from a false delicacy to the officer, it becomes the House to embrace the resolution and make the inquiry. If evidence shall be collected, and it appears that there are no grounds for impeachment, the officer will be restored to the public confidence, and will be acquitted. If, on the other hand, it appears that he has been guilty of malfeasance in office, a duty will be imposed upon the House, from which they cannot recede, to bring him to trial.

MR. THATCHER.—As gentlemen seem to consider the decision of the court in the trial of Fries as unprecedented, I beg leave to refer them to the cases of the United States *versus* Vigol, and the same *versus* Mitchell, 2 Dallas's Reports, 346 to 357. They will find that the decision of the court, in the case of Fries, was exactly conformable to cases adjudged in 1795. Without troubling the House with the whole of those cases, I beg leave to read the decision of the court in the last case. "The charge of the court, says the reporter, 'was delivered to the jury in substance as follows. 'Patterson justice. 'The first question to be considered is, what was the general object of the insurrection? If its object was to suppress the excise offices, and to prevent the execution of an act of Congress, by force and intimidation, the offence, in legal estimation, is high treason: it is an usurpation of the authority of Government; it is high

'treason by levying of war.'" The decision, sir, is also conformable to the English authorities. The charge then against Judge Chase and Judge Peters, after divesting it of the coloring which imagination has given it, amounts to this—that, in the trial of Fries for treason, the court prevented the counsel from arguing to the jury against a point of law long settled by that and other courts of the United States. I have attended closely to the statement made by the gentleman from Pennsylvania, (MR. SMILIE,) and I believe I am correct.

The very point which the counsel of Fries would have argued to the jury, was that which had long before been settled by the courts of the United States. I contend, sir, that this court did no more than they had a right to do—no more than is practised by every well regulated court. They prevented counsel from arguing law in the face of the authorities, and of the opinion of the court. That this is usual, I appeal to gentlemen of the law who are present. This, sir, is the only fact stated to the House upon which the motion is founded.

The gentleman from Virginia (MR. RANDOLPH) has said, that he has been informed of facts, which convince him that an inquiry ought to be made. But that gentleman has not stated to the House what those facts are.

It has been contended that where a member of this House shall state that he is convinced that an inquiry ought to be made, the House ought to institute such an inquiry. Precedents have been adduced to prove that this has been done in the British Parliament. There certainly has been no case cited where an inquiry has been commenced upon the motion without stating his facts or his evidence. But whatever may have been the practice in England I can never consent to vote upon any impressions or convictions but my own.

If the official conduct of the judges upon the trial of Fries was such as to require the interposition of this House (why, as the gentleman from Connecticut, MR. GRISWOLD, has asked) why was not this inquiry sooner announced? This trial, I am told, was in February, 1800. It took place, within the hearing of Congress. It was the subject of universal attention. Why has it slept four years? Upon what ground shall we invest a committee with power to ransack the country for charges against our judges? Shall we, upon the motion of a member—shall we, upon the statement of the gentleman from Pennsylvania, (MR. SMILIE,) commence an inquiry, troublesome and expensive—an inquiry, which must attach suspicion to the official conduct of the judges? Sir, I respect the conduct of the gentlemen who attempt to remove obstructions from the stream of justice, but I must be convinced that obstructions now exist, before I can vote for this resolution.

MR. EARLY.—Like other gentlemen who have gone before me in this discussion, I do not consider myself at liberty to vote against the resolution on the table. Like them, I deem myself bound to vote for an inquiry into the conduct of any public officer, when that inquiry is demanded by a member of this House. After the view taken of

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the merits of this measure by the gentlemen from Pennsylvania and Virginia, I did expect that all further opposition to it would have ceased. In this expectation I have been disappointed.

I feel constrained to vote in favor of this resolution, because I believe that the inquiry it contemplates is an act of justice due to the people of the United States on one hand, and to the characters of the individuals charged, on the other. A charge of high crimes and misdemeanors has been made on this floor against two individuals, and two members of this House have demanded an inquiry into their official conduct. To this demand may be added the weight of public opinion. I am apprized of the delicacy of this ground, and when I resort to it, it is my wish to be understood as meaning that when charges of a high nature are instituted and reiterated from one end of the Union to the other, so as to create a general belief, so as to destroy confidence in the principle and integrity of those who administer justice, and to beget a suspicion that justice cannot be obtained equally by all men; under such circumstances the public voice demands an inquiry into the truth of the charges. Is this a fact, or is it not, in relation to the officers implicated in this resolution? I presume that it is the fact to a great extent will not be denied. Every gentleman on this floor, in the habit of reading the public prints, must have had so forcible an impression made on his mind on this subject, as not to have lost a recollection of the conduct charged upon one of the judges named in this resolution, in the case of Fries, Cooper, and Callender. I cannot, therefore, refuse my assent to the inquiry, because I believe it due to the public, as well as to the individuals charged with the improper conduct, and who, if they were on the spot, would undoubtedly memorialize us for an inquiry. Indeed one of the officers referred to in the resolution, if conscious of his innocence, ought, in my opinion, long since, to have demanded an inquiry into his official conduct, when he witnessed the strong and numerous charges against him in the public prints from one end of the Continent to the other.

It is objected to this resolution that no proof has been adduced to the House of the truth of the allegations preferred. In my mind there is all the difference that can be imagined between an inquiry and an impeachment; and almost all the arguments urged on this occasion apply exclusively to an impeachment. A strong proof of this has been given by the gentleman who has just sat down. That gentleman (Mr. R. GRISWOLD) has taken this remarkable ground, that this House ought not to inquire without proof. I suppose he meant, by proof, the depositions of witnesses; this is, in other words, saying that we, whose Constitutional duty it is to inquire, may omit to do it, because they whose duty it is not to inquire, have not done it.

The present resolution is nothing more than this: A certain officer of the Government is charged, in the face of the nation, with malfeasance in office, and a committee appointed to inquire into the truth of the charge. Gentlemen allege

that the committee is to be appointed to inquire what accusations can be found, and then for testimony to sustain them. But this is not so. The accusations have been long since made, and they are not of a day, but of a year's standing.

The analogy between the functions of this House and a grand jury, is correct and forcible. Before a grand jury, it is the right of any individual to apply for and demand an inquiry into the conduct of any person within their cognizance; and it is more especially the right of any member of the jury to make such a demand; and it is their bounden duty, according to their oaths, to make the inquiry when so demanded.

The official conduct of the judges I view as more delicate and important than that of any other description of officers; for, on their impartiality the whole people of the United States depend for obtaining justice in ordinary cases, and individuals depend, in the last resort, for the preservation of their lives. Their official conduct should, therefore, not only be correct, but likewise free from suspicion. Simply to be charged ought to produce an inquiry; and I must confess that a recent case, in which the integrity of a judicial officer was impeached, excited my warmest approbation. I mean the case of a judge (Judge Tucker) in a neighboring State, who, on a suggestion believed by no man, deemed it a duty to himself and his country to demand an inquiry into his conduct.

Another view, by no means unimportant, which may be taken, is, that the reputation of the Government, of which the judges are a component part, demands the inquiry in question. Will any gentleman pretend to say that reputation is not at stake? that it is not affected at home or abroad by the charges which have been so long and so loudly made? I presume not. Whether those charges are true or not, is not the question; for, whether true or not, so long as they are generally believed the reputation of the Government is affected; its reputation for impartial justice is affected, and deeply too. To refuse this inquiry would be to give weight to this impression abroad—to add to the suspicion, at home and abroad, that impartial justice is not done to all men. Let us, then, make the inquiry, and restore the reputation of the Government, by inflicting a proper punishment upon these officers, if guilty, and, if innocent, by proving the charges against them calumnies.

Mr. EPPES.—If, in adopting the resolution before us, we were to attach odium to the characters in question, I should feel no surprise at the course pursued by the gentlemen who oppose this inquiry. In this country the official conduct of every man is, and ought to be, subject to examination. It is not the examination, but the result of that examination, which attaches merit or demerit to a public character. In a Government like ours no principle ought to be cherished with greater care than a free inquiry into the conduct of public officers. So friendly am I to this principle in its fullest extent, so necessary do I believe it to be to the preservation of that purity in public officers essential to a Republic, that it will always be sufficient for me to vote an inquiry, for a member to

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declare he considers an inquiry necessary. A proper regard to his own reputation will always, I am certain, prevent any member of this House from calling on us to exercise this important duty on light or trivial grounds. As to the extensive field of inquiry to which this doctrine may lead, I care not; and whenever a member of this House shall rise in his place and declare that he considers an inquiry into the conduct of a public officer or officers necessary, I shall be ready to pass the whole circle in review, to begin with the first and end with the last, to vote an inquiry into the conduct of each, and even to go further, to vote an impeachment if necessary. I shall on every such occasion consider it a duty I owe to the individual accused, and to the community in whose behalf the accusation is made, to vote an inquiry.

Thus much for the general principle which would induce me to vote for this resolution if no specific charge had been made. In the present case, however, a specific charge of a serious kind has been made by a member from Pennsylvania; and, however gentlemen may have attempted to weaken the force of this charge, it does substantially amount to this: that, by the opinion of a judge, a citizen of the United States was deprived of his Constitutional right to counsel, when arraigned for his life. I will not, however, dwell on this charge. It has been placed by a gentleman from Maryland (Mr. NICHOLSON) in a point of view satisfactory to myself, and, I believe, to the House. I consider it, however, my duty on this occasion to mention a trial which took place in the Commonwealth of Virginia, which affords another specific charge against Judge Chase. I was not present at this trial, and am not personally acquainted with the circumstances. I believe, however, that in the Commonwealth of Virginia but one sentiment prevails as to the conduct of Judge Chase on this occasion, viz: that it was indecent and tyrannical. In the course of the trial he refused to allow a witness on the part of the prisoner to be examined, because the witness could prove the truth of a part only, and not the whole of the words laid in the indictment. By a system of conduct peculiar to himself, he deprived the prisoner of the aid of Mr. George Hay, as counsel, a man, who, although not as generally known as some others in our State, is inferior to none in his profession. I do not mention these circumstances as hearsay evidence, but as facts, which I am induced to believe can be established by legal testimony. If, on this statement, there is any gentleman who can refuse an inquiry, I am willing to leave him in the enjoyment of his opinion. For my own part, I shall be always ready, on the demand of any member of this House, to exercise my Constitutional right of inquiry, and, without partiality or prejudice, pursue the course pointed out by my duty, whether it shall lead to impeachment or an honorable acquittal.

Mr. NICHOLSON rose for the purpose of calling the attention of the House to precedents. When he yesterday addressed them he had thought it unnecessary to introduce authorities from foreign nations; but as they had been insisted on by the

opponents to the resolution, he would refer to two or three; and he was more solicitous to do so at the present moment, as he saw a gentleman from Connecticut (Mr. DANA) about to rise, and he wished to call the gentleman's attention to them, in order that he might remark on them, and show, if it was to be done, that they did not apply to the case under consideration. If gentlemen would refer to the powers exercised by the Commons of England, for time almost immemorial, and to those exercised by the several State Legislatures, he believed that precedents innumerable would be furnished. The Commons of England were the grand inquest of the nation. As such it was their duty to inquire into the official conduct of all those entrusted with the powers of Government. Every officer in the realm was liable to impeachment by them. The same principle would be found to run through the constitutions of most of the States, and it was wisely introduced into the Constitution of the United States. The power to impeach is admitted to be in the House of Representatives, and the only question is, as to the manner in which this power shall be exercised. The proposed method is called a loose one, and we are asked to show some precedent for it. The House of Commons at the commencement of every session appoint what is there called a committee of grievances and courts of justice. Many of the State Legislatures appoint a similar committee annually, and, in the State from which he came, the House of Delegates always appoint a committee of grievances and courts of justice. It was one of their standing committees, and the appointment was as regular and as usual as the appointment of a committee of claims in this House. What then he inquired was the duty, what the authority of this committee? In England, in Maryland, and in every other State where it exists, it is their duty to inquire into the conduct of every officer of the Government, to call witnesses before them to prove official misconduct, to report offences to the House from which their powers are derived, and recommend the proper measures to be adopted.

This House, like the Commons of England, and the most numerous branch in the State Legislatures, is the grand inquest of the nation; they are to inquire into crimes and bring offenders to justice. It had not, he said, heretofore been customary for the House to appoint a committee of grievances and courts of justice, but he believed no man would deny the power, and when appointed they would not only have the authority proposed to be in this committee, but one infinitely more extensive. They would have the right to inquire into the conduct of all civil officers, and to report such facts as might come to their knowledge. If, then, we could, with propriety, and agreeably to precedent, authorize an inquiry into the conduct of several hundred officers, could it be denied that the same precedent would warrant an inquiry into the conduct of two only? In 5th *Comyn's Digest*, page 204, it would be found that a committee of grievances and justice was one of their standing committees, and in page 205 it was declared that they might "summon any judges and examine

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them in person, upon complaint of any misdemeanor in office." He presumed it had not been thought necessary heretofore to appoint a general committee of this kind, but at present the necessity was apparent, as a complaint had been made to the House of the official misconduct of two judges. Again, in the same book, page 209, it is said, "The Commons are the general inquisitors of the realm, and therefore if a Lord, spiritual or temporal, commit oppression, bribery, extortion, &c., the Commons shall inquire of it, and if, by the vote of the House, the crime appears to have been committed, they transmit it, with the evidence, to the Lords." This, he said, would clearly show, what indeed he thought common sense would teach every man, that the inquiry should be made before proof was exhibited upon which an impeachment was to be grounded. In the same page it would be seen that "common fame is a sufficient ground of a proceeding in the House of Commons by inquiry, or by a complaint, if need be, to the King or Lords." And *Rushworth's Historical Collection*, page 217, is cited, it is said by some of the ablest lawyers of that day that "if common fame were not to be admitted as public accusers, great men would be the only safe ones, as no private man would venture to complain of them." Mr. N. referred to these authorities at that particular stage of the discussion, as he was desirous of giving gentlemen an opportunity of commenting upon them. As he had no wish to prolong the debate, he would not multiply observations upon that point, but could not sit down without noticing what had fallen from a gentleman from Massachusetts, in which he had again attempted to vindicate the conduct of the judges upon the trial of Fries.

The gentleman had referred to a case in *Dallas' Reports*, respecting the Western Insurrection, in which he says the point of law determined upon the trial of Fries, had been previously settled by one of the federal courts, and from thence infers that Mr. Chase and Mr. Peters were justified in preventing counsel from arguing it a second time. That such conduct might be perhaps excusable in a civil cause he was not prepared to deny; but, in a case of criminal jurisdiction, involving the guilt or innocence of a man whose life was to be the forfeit, he held it totally unjustifiable.

All men, he said, were acquainted with the circumstances of what was generally called the Western Insurrection. Some of the Western counties of Pennsylvania were opposed to the excise law. A considerable majority of the people had resolved to oppose its execution, and took strong measures to prevent individuals from accepting offices under it, and compelled some of them to resign the places to which they had been appointed. While they professed an attachment to the Government of the Union they resolved to resist the execution of one of its laws. Among these was a man by the name of Mitchell, and he was charged with high treason before the circuit of Pennsylvania in which Judge Paterson then presided. A doubt existed whether the resistance to the execution of a law, even by force of arms,

was such a levying of war within the meaning of the Constitution, as amounted to treason. What was the conduct of the judge on that occasion? He had no disposition to preclude inquiry. He had no wish to keep the jury in ignorance by forbidding fair and open argument. On the contrary, it appeared from a note on page 348 that he called the attention of the prisoner's counsel to the point and requested that they would notice it in their observations. This was done before the defence was opened, and he said he should beg leave to read a part of the argument made in favor of the prisoner.

"The counsel for the prisoner (E. Tilghman and Thomas) premised that they did not conceive it to be their duty to show that the prisoner was guiltless of any description of crime against the United States, or the State of Pennsylvania, but they contended that he had not committed the crime of high treason, and ought, therefore, to be acquitted on the present indictment. The adjudications in England upon the various descriptions of treason, had been worked, incautiously, into a system, by the destruction of which the Government itself would be seriously affected; but even there, the best judges and the ablest commentators, while they acquiesce in the decisions that have already taken place, furnish a strong caution against the too easy admission of future cases, which seem to have a parity of reason. Constructive and interpretive treasons must be the dread and scourge of any nation that allows them—1 *Hale, P. C.*, 132, 259—4 *Black. Com.*, 85. Take, then, the distinction of treason by levying war, as laid down by the attorney of the district, and it is a constructive or interpretive weapon which is calculated to annul all distinctions heretofore wisely established in the grades and punishments of crimes, and by whose magic power a mob may be easily converted into a conspiracy, and a riot aggravated into high treason."

Such, he said, was the opinion of two gentlemen ranking high in their profession, and who would not be charged with having any feeling toward the offence or the offender inconsistent with the rights or interests of the Government. The whole argument was too lengthy to be read to the House, but he considered it well worth the perusal of every American. Able as it was, however, it had not the wished for weight with the court. Judge Paterson gave the following charge to the jury: "The first question is, what was the general object of the insurrection? If its object was to suppress the excise offices, and to prevent the execution of an act of Congress, by force and intimidation, the offence, in legal estimation, is high treason; it is an usurpation of the authority of Government; it is high treason by levying of war." Sir, said Mr. N., this opinion of the court may have been honest; I mean not to impeach the purity of motive which dictated it, but I mean to show that the offence with which Mitchell was charged, the resistance to the execution of a law, was not considered as treason by the highest existing authority of this country. Mitchell was pardoned by the President of the United States, and Congress, not long after, expressed their opinion on the subject in the most ample manner.

The trial of Mitchell which I have just quoted took place in 1795, and in 1798 the subject was

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taken up by Congress, who by the act of the 14th of July, 1798, provided that the resistance to the execution of a law should be considered a high misdemeanor only, punishable by fine and imprisonment. The act is in these words: "If any persons shall unlawfully combine or conspire together, with intent to oppose any measure or measures of the Government of the United States which are, or may be directed by proper authority, or to impede the operation of any law of the United States, or to intimidate or prevent any person holding a place or office in or under the Government of the United States, from undertaking, performing, or executing his trust or duty, he or they shall be deemed guilty of a high misdemeanor, and on conviction before any court of the United States having jurisdiction thereof, shall be punished by a fine not exceeding \$5,000 and by imprisonment during a term not less than six months nor exceeding five years." Here, sir, the resistance to the execution of a law is declared to be a high misdemeanor only, punishable by fine and imprisonment. Fries was tried in 1800, two years after the passage of this law. The offence of which he had been guilty was rescuing prisoners from the marshal by force, thereby, in the language of the act, "preventing an officer of the United States from performing and executing his duty," and it was to show that he was punishable under this act by fine and imprisonment only, that his counsel were desirous of bringing the law before the jury. This, however, the court refused; the man was convicted of high treason, and was sentenced to a most ignominious death. Let such conduct be vindicated where and by whom it may, I must declare that it can never meet my approbation.

Mr. DANA.—It is to be regretted, Mr. Speaker, that a resolution so novel and of so much importance as that on the table was not postponed, at least for one day after it was presented to the House. Had this been done, gentlemen might have had some opportunity deliberately to examine the subject, before they were required to make a decision. But as the resolution was moved without giving any previous notice, and has been pressed upon us immediately after it was moved, I do not feel myself prepared, as I could have wished to be on such a question, before attempting to deliver my sentiments in this House. Unprepared, however, as I am, I request your indulgence while I offer a few remarks.

I will first attend to some precedents mentioned by the gentleman from Maryland, (Mr. NICHOLSON.) He has stated that it has been usual in the English House of Commons to appoint a committee for courts of justice, with power to inquire into the proceedings of courts, and for this purpose to call persons before them for examination. But, sir, is not such a committee appointed for general purposes, not directed against any individual, and therefore not affecting the character of any magistrate? Their powers relate to the judicial system generally, and do not implicate any one of the judicial officers. Does the resolution on the table propose a committee of this kind? On the

contrary, it is explicitly directed against two of the judges. If gentlemen would justify their proceedings by the practice of the British House of Commons, let the resolution be made to have a general reference to all the courts, instead of being pointed as it now is, against particular persons. In its present form it departs essentially from the principle of the case mentioned by the gentleman from Maryland, and therefore cannot be warranted by that precedent.

The gentleman has also stated that a committee was appointed by the last Congress to investigate the accounts of the officers of Government, merely upon common report. But it should be remembered that those officers were officers of the Executive Departments. It is the acknowledged duty of such officers—it is made their duty by law to give information to Congress, whenever required, upon any of their public transactions. And it is the peculiar right of the House of Representatives, as guardians of the Treasury, at any time, to inquire into the expenditures of public money. But are the judges of the United States placed in the same situation with the Executive officers? Are they to be under the same control, and equally dependent? You may indeed impeach the judges, if guilty of impeachable offence. But what other power over them is given you by the Constitution? It should further be remembered, that the resolution for appointing the investigating committee did not criminate any particular officer. At first it was proposed to examine only the accounts of the former Secretary of State. But upon its being suggested by a gentleman from Massachusetts, (Mr. EVSTIS,) who has been so strenuous an advocate for the present resolution, that it would be improper in that manner to attack the character of a particular officer, the resolution was made general, and extended to the accounts of all the Executive Departments.

Upon the like principle, the resolution now on the table is improper. My objection to it is, that it points out two particular officers as objects of suspicion, and proposes a committee for inquiring into their conduct without assigning any cause, and without specifying any subject of inquiry. Gentlemen have expressed a dissatisfaction that such a committee should be compared to the star chamber or the inquisition. If they do not perfectly resemble the star chamber, formerly known in England, or the inquisition of Spain, the proposed powers of the committee are certainly indefinite and inquisitorial. Perhaps, if a comparison was necessary, they might more properly be compared to the State inquisitors of Venice, who are well known to have formed one of the most detestable tyrannies ever tolerated in a country pretending to freedom.

If charges were specified in the resolution, a member of this House on moving it might then have a right to demand an inquiry. But are the House bound to investigate the conduct of a particular officer, without any charge against him? Gentlemen have said much about the general right of this House to inquire into the conduct of public officers, as if this were the point in dispute.



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But who has denied the right of inquiry as incident to the power of impeachment? When any officer is charged with an impeachable offence, it is admitted to be, and from the nature of the thing it might be, the right of the House to inquire into the truth of such charge. I trust no gentleman in opposition to the present resolution can be found so ignorant of the true principle on which it is opposed as to deny the responsibility of the public officers, or the right of the House to inquire into their conduct. But, the right being admitted, the question is made as to the exercise of that right in the manner now proposed. When this House is called upon to direct the whole force of its influence against a particular judge, is it not reasonable, is it not just, that some charge should first be stated against him? This is but a decent respect to judicial character. It is but a decent respect to the character which becomes the assembled Representatives of a nation. The person implicated might then be enabled to meet the inquiry and obviate unfounded suspicion. Our power with respect to the judges is the power of impeachment; but we are not, therefore, justified in wantonly assailing their characters and sporting with their sensibility to reputation. The right of inquiry relates to impeachable offences. Shall we, then, inquire where no offence is stated? So far is the resolution from stating what would warrant an impeachment, that it does not mention any offence, or refer to any transaction.

The gentleman from Virginia, who moved the resolution, (Mr. J. RANDOLPH,) has, indeed, declared his own conviction, that the judicial officer in question had done wrong. Might not other gentlemen also have their opinions and exercise their own judgments in forming them? They ask for the reasons of his conviction before they vote for his resolution. His information, he says, was received in such a manner that he does not choose to disclose it. If any person has communicated anything to him confidentially, he is not desired to name his informant. The gentleman shall not be desired by me to make any disclosure which would offend against the most delicate sense of honor. But can it be improper for him to state the general nature of the offence which he believes to have been committed? Will this violate any honorary confidence? He is desired to make such a statement that other members of the House may have an opportunity of judging whether the believed offence will warrant a vote of impeachment. In cases of this kind, is any member to be deemed infallible? When a gentleman, in his place, states a fact as of his own knowledge, his veracity is regarded as unquestionable; but his infallibility is not supposed to extend to matters of mere opinion. Upon the principle of its being possible for the gentleman from Virginia to err in opinion, and its being equally the right of the other members to judge what conduct amounts to an impeachable offence, it might have been reasonably thought that he would at least state to the House the nature of the facts on which he relies as the basis of his resolution. If he, or any other member, declaring his

conviction that a judge has misdemeaned himself in office, will exhibit to the House a statement of any fact, or series of facts, which would warrant an impeachment, I will be ready instantly to vote for an inquiry. But nothing of this kind is exhibited, and therefore the resolution on the table is now opposed. Before you agree to oppress a judge with all that weight of suspicion which may be imposed by a vote of this House, let him be permitted to know what part of his conduct is supposed to be exceptionable, that opportunity may be had in the progress of any inquiry to vindicate himself against unmerited reproaches! Instead of a course of proceeding so fair and obviously just, the resolution on the table marks two of the judges for public suspicion, without specifying any supposed misconduct. It marks them as public objects of suspicion throughout the whole of their judicial life, and, without naming anything, invites private enemies to accuse them of everything.

To support such a resolution, common fame has been mentioned in the course of debate, as a sufficient ground of proceeding; and this idea is supposed to be authorized by English precedent. Whatever may have been done formerly, and in a period of rudeness or violence, the more improved system of modern jurisprudence should discard such a doctrine if it ever prevailed. But even that doctrine, if admitted, would not justify you in adopting the present resolution. You cannot thence infer the propriety of proceeding against a person who is not accused of anything punishable. Will it be pretended that the common fame, which is to be a ground of proceeding, does not refer to any offence or to any transaction? Common fame, if admitted for proof, must be supposed to apply to some subject of complaint. On the principle even of this very questionable doctrine, a statement of some charge is requisite. What, then, in the present case, is the accusation which could be supported by common fame? If there be any such, let it be stated.

The gentlemen who advocate the resolution in its present form fail in their efforts to support it, notwithstanding all the aid which they have sought from "the leading-strings and crutches of precedents," (to use the language of the gentleman from Virginia.) On general principles, on the broad basis of universal right, the resolution is condemned; and no precedent is adduced which can justify it. I do not wish to shield any public officers, whether judges or others, who may merit impeachment; but I wish the House, when acting as public accusers, to proceed in such a manner as not to do injury to any individual. Justice is due to the individual as well as to the public. No public duty can require this House to adopt a resolution of general reproach, yet stating no public offence. And it but illy accords with the principles of justice to subject the judicial officers of the Union to all the inconvenience, vexation, and expense, of being obliged to vindicate themselves against secret accusations, which it may be more difficult to discover than to overthrow.

You will observe, sir, that I do not enter into

any particular examination of the case referred to by the gentleman from Pennsylvania, (Mr. SMILIE,) whether there was a controversy as to prerogative and privilege between the court and the bar, in which the pride of professional rank appeared in opposition to judicial authority. Whether the judge very properly refused to yield to the counsel, or whether the court committed an error in pronouncing the law, these are topics which I think it needless to examine in considering the resolution now on the table; for the resolution itself states nothing, and there is no case before us for examination.

On so grave a subject as the present, when we are called upon to aid in the administration of justice, it was to be desired that the advocates of the resolution should so far regard their own exhortations as to refrain from attempting to enkindle the animosity of party. The gentleman from Pennsylvania (Mr. SMILIE) seems to have thought himself at liberty to pursue a different course. But, considering the nature of the question on which our votes are to be given, I hope to be excused if I deem it not proper in this debate to reply to him on the various topics of party discussion which he has chosen to mention, although the task might be easy indeed to repel his charges against the former Administration. A single observation, however, may be proper on a law to which he has alluded in the language of censure. There was at least one prominent feature which might recommend it to the friends of truth. It expressly declared that the truth might be given in evidence.

Mr. DENNIS observed that in the course of the remarks which he had the honor of making yesterday, he had declared himself in favor of the proposed investigation, provided it were made on proper principles; and, in order the more clearly to illustrate his ideas and evince his sincerity, he had read in his place a resolution embracing all the facts which had been suggested to the House as the foundation of this proceeding. He had then said he would not pledge himself to offer a resolution such as he then read, but would vote for it if offered by others. As the gentleman from Virginia (Mr. RANDOLPH) had not accepted his overtures, and in the course of his observations had done him the honor of noticing some of his ideas expressed in yesterday's debate, he rose principally for the purpose of offering an amendment, and partly for the purpose of replying to one or two of the gentleman's remarks. He was not a little surprised at the animated strain in which that gentleman had addressed the House in the course of this morning, nor did anything appear to have fallen from any gentleman in the course of the discussion which appeared to him calculated to produce so much excitement as he had manifested. But as he did not claim to set up his own feelings or his own conduct as the standard by which the feelings or actions of others ought to be guided, and as the gentleman had applied his observations without implicating motives, he had not at all interrupted the equanimity of his disposition. He had exercised a right which he should

always be disposed to accord to that gentleman and every other member—the right of placing the observations of his opponents in the most ludicrous point of view of which they were susceptible. In this right he would also indulge himself whenever the subject required it.

The gentleman from Virginia, in replying to some of his observations, had said that he had conceived the charge exhibited was of a very serious nature, but did not appear to comprehend in what respect he considered it so, and therefore he wished to explain in what manner he considered it as such. He considered it as serious, inasmuch as it was calculated to excite suspicion and asperse the official conduct of the gentlemen in question; but did not mean to insinuate, but on the contrary repelled the idea of its being serious as regarded its sufficiency, if true, as a foundation of impeachment. In order to show that the conduct of the judges had not been so highly censurable even as the statement of the gentleman from Pennsylvania, (Mr. SMILIE,) or his colleague and the gentleman from Virginia, seemed to suppose, he begged leave to state his ideas as to the rectitude of their conduct. Here he might use the observation of the gentleman from Virginia, applied to one of his own remarks, and say, that gentleman had with no great dexterity confounded two principles as distant from each other as the northern from the southern pole. He seemed to assimilate the case in which the court have arbitrarily withdrawn the question of law entirely from the jury, to the conduct of the court in this case, which only went to restrict the counsel from arguing before the jury a case already settled in the minds of the court, by a train of judicial determinations in similar cases, and in which they left both law and fact to the determination of the jury; directing them as to the law upon the subject. He was warranted in his opinion, because the gentleman from Virginia, in illustrating some of his positions, had cited the case of libel as decided by Lord Mansfield, and Mr. Fox's celebrated declaratory bill, which grew out of that decision. What analogy has that case to the case in question? Lord Mansfield decided that in the case of a libel, all the jury had to do was to find the fact of publication or not, and that whether when published it were criminal or not, they had no right to determine, and thus withdrew the question of law altogether from their decision.—This was justly regarded as a gross violation of that principle of the criminal law of that country, which invests the jury with the right to decide as well on the law as the fact. This principle I fully acknowledge, and if the court in the case of Fries had deprived the jury of that right, and withdrawn the question of law from them, there might be some foundation for this resolution. But, according to the statement of the gentleman from Pennsylvania, the question of law and fact were both submitted to the jury, with the instructions of the court on the legal question. He had always been taught to believe that the court were the proper organ through which the law was to be communicated to the jury, though he did not

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deny but the jury had the right which they should cautiously exercise, but which they would always exercise, when they discover an inclination in the court to oppress the citizen or exculpate the guilty, to reject the direction of the court and decide for themselves.

But the complaint is, that the court denied to the counsel the privilege of arguing the law before the jury. Mr. DENNIS said he believed the court possessed a power of this nature, to be regulated by a sound discretion. If the court should believe that a question had been put at rest by a long train of judicial decision, such as was the case in this instance, they not only have the right, but it becomes their duty to prevent a useless consumption of time, and to prohibit the counsel from agitating the question. Indeed it is indelicate in counsel to impress on the jury an opinion of law contrary to the known opinion of the court; nor is there any court who will not take on themselves the right of checking counsel, in an attempt to mislead the jury on a question of law. Such was the practice of the courts in Maryland, and in that country from which we derive all our notions of jurisprudence.

But though he did not conceive that there was any ground for impeachment in the statement of the gentleman from Pennsylvania, yet he knew that this discussion would produce a vague and undefined censure, which he believed the judges in question ought to have an opportunity of repelling. He therefore moved the following amendment, by way of preamble to the resolution:

Whereas information has been given to the House by one of its members, that, in a certain prosecution for treason on the part of the United States against a certain John Fries, pending in the circuit court of the United States in the State of Pennsylvania, Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, and Richard Peters, district judge for the district of Pennsylvania, by whom the said circuit court was then holden, did inform the counsel for the prisoner, that as the court had formed their opinion upon the point of law, and would direct the jury thereupon, the counsel for the prisoner must confine their argument before the jury to the question of fact only; and whereas it is represented, that in consequence of such determination of the court, the counsel did refuse to address the jury on the question of fact, and the said John Fries was found guilty of treason and sentenced by the court to the punishment in such case by the laws of the United States provided, and was pardoned by the President of the United States:

*Resolved*, That a committee be appointed to investigate the truth of the said allegations, and to report a statement of facts in the case aforesaid, with their opinion thereupon, whether the said Samuel Chase and Richard Peters, or either of them, have so conducted themselves on the trial aforesaid as to render necessary the interposition of the Constitutional powers of this House.

This amendment embraces all the facts stated by the gentleman from Pennsylvania, points out a specific charge as the foundation of the proceeding, and yet, when attached to the resolution, gives to the committee the power of general inquiry.

We are told that the facts have been stated by a member on the floor, and there is no reason for stating them in the resolution. Will the statement of the gentleman from Pennsylvania appear on your journals, and how will it hereafter be known that any fact was stated as the foundation on which to erect a committee with general inquisitorial powers? Posterity will only see the resolution, and to them it will be a precedent which will justify the creation of a committee of inquiry into the official conduct of any officer, without the allegation of a single fact, whenever a member may choose to be of opinion that a vexatious and expensive proceeding shall be instituted. It was therefore that he wished to resist the principle, and for that purpose moved the amendment.

Mr. HUGER said he had before stated, and he now repeated, that he was not averse to an investigation; but he did not consider himself bound to vote for a resolution so general and vague. If the amendment of the gentleman from Maryland were adopted he should vote for the resolution.

Mr. NICHOLSON moved to amend the amendment, by striking out the whole of it after the word "whereas," and by inserting—

"Members of this House have stated in their places that they have heard certain acts of official misconduct alleged against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, and Richard Peters, judge of the district court of the district of Pennsylvania"

Mr. HUGER had no objection to the insertion of the last amendment, but he had to striking out the first. He therefore called for the yeas and nays upon striking out.

The question was then taken by yeas and nays upon striking out, and carried—yeas 79, nays 41, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, David Bard, Geo. Michael Bedinger, Phanuel Bishop, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Joseph Clay, John Clopton, Jacob Crowninshield, William Dickson, John B. Earle, Peter Early, Ebenezer Elmer, John W. Eppes, Wm. Eustis, William Findley, John Fowler, James Gillespie, Edwin Gray, Andrew Gregg, John A. Hanna, Josiah Hasbrouck, William Hoge, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, John Randolph, jun., Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erasmus Root, Thomas Sammons, Thomas Sanford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, John Whitehill, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Simeon Baldwin, Silas Betton, John Camp-

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bell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, James Elliot, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, James Mott, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, John Smith of New York, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, George Tibbits, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

The question was now taken on inserting the amendment of Mr. NICHOLSON, and carried.

The question was then put upon agreeing to the amendment thus amended.

Mr. PURVIANCE said he could not vote for it because it did not state the fact. It declared that members of the House had stated that they had heard of official acts of misconduct of both the judges, when but one act had been charged against Judge Peters.

Mr. J. RANDOLPH observed that he perceived no reason for the preamble. He hoped therefore it would not be agreed to. General inquiry was his object, and, as going to limit it, he was against the preamble.

Mr. ELLIOT said that, had the amendment of the gentleman from Maryland prevailed, he might have reconciled it to his mind to vote for the resolution thus amended. But as it stood, he could not.

Mr. NICHOLSON remarked that when he offered the amendment, the incorrectness suggested by the gentleman from North Carolina had not occurred to him. To obviate this incorrectness he would move to amend the amendment by saying "a certain act of Richard Peters."

The SPEAKER said this amendment was not in order.

Mr. NICHOLSON said that under such circumstances he must vote against the whole amendment.

The question being taken, the amendment as amended was lost without a division.

When the resolution for appointing a committee of inquiry was carried—yeas 81, nays 40, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, David Bard, George M. Bedinger, Phanuel Bishop, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, John Clopton, Jacob Crowninshield, Richard Cutts, William Dickson, John B. Earle, Peter Early, Ebenezer Elmer, John W. Eppes, Wm. Eustis, William Findley, John Fowler, James Gillespie, Edwin Gray, Andrew Gregg, John A. Hanna, Josiah Hasbrouck, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, Wm. Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Paterson, Oliver Phelps, John Randolph, jun., Thomas

M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Thompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, Thomas Wynns.

NAYS—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, James Elliot, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Samuel L. Mitchell, James Mott, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, John Smith of New York, Wm. Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, George Tibbits, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

*Ordered*, That MESSRS. JOHN RANDOLPH, jun., NICHOLSON, JOSEPH CLAY, EARLY, ROGER GRISWOLD, HUGER, and BOYLE, be appointed a committee pursuant to the said resolution.

MONDAY, January 9.

Another member, to wit: WILLIAM HELMS, from New Jersey, appeared, produced his credentials, was qualified, and took his seat in the House.

The resolution offered by Mr. BARD, for the imposition of a tax of ten dollars upon every slave imported into any part of the United States, was taken up and referred to a Committee of the Whole on Thursday.

The House resolved itself into a Committee of the Whole on the bill further to amend the act to lay and collect taxes within the United States; and, after some time spent therein, the Committee rose and reported several amendments, which were ordered to lie on the table.

TUESDAY, January 10.

Mr. JACKSON, from the committee appointed on the twenty-ninth of November last, presented a bill making provision for the application of the money heretofore appropriated to the laying out and making public roads leading from the navigable waters emptying into the Atlantic to the Ohio river; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. FINDLEY, from the Committee of Elections, to whom it was referred to examine the certificates or other credentials of the members returned to serve in this House, made a further report, in part, thereupon; which was read, and ordered to lie on the table.

Mr. NICHOLSON, from the committee appointed on the eighteenth of October last, presented a bill to provide for the further protection of American

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seamen; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. NICHOLSON, from the same committee, presented a bill for the better direction of the collectors of the respective ports of the United States, in granting to seamen certificates of citizenship; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. NICHOLSON, from the committee appointed, presented a bill to authorize the courts of the United States to appoint Commissioners to take the depositions of witnesses out of court; to administer oaths to appraisers, and for other purposes; which was read twice and committed to a Committee of the whole House on Thursday next.

Mr. DICKSON, from the committee to whom were referred, on the twenty-fifth of November last, a memorial of the Legislature of the State of Tennessee, together with the petition of Memucan Hunt and others, addressed to the General Assembly of the State of North Carolina; also sundry resolutions of the said Assembly respecting a claim for the value of certain lands in the said State of Tennessee, presented to this House on the nineteenth of January, one thousand eight hundred and two, and the report of a select committee thereon of the twenty-fourth of March, in the same year, made a report; which was read, and referred to a Committee of the whole House on Monday next.

A petition of sundry citizens of the United States, resident in the Territory of Columbia, was presented to the House and read, praying the aid and patronage of Congress in the establishment of a company for the building of a bridge across the Potomac river, from the western and southern extremity of the Maryland Avenue, in the City of Washington to the nearest and most convenient point of Alexander's island in the said river.—Referred to Mr. J. CLAY, Mr. THOMPSON, and Mr. J. CAMPBELL, to examine and report their opinion thereupon to the House.

Mr. J. RANDOLPH, from the Committee of Ways and Means, presented a bill for the relief of the captors of the Moorish armed ships Meshouda and Mirboha; which was read twice and committed to a Committee of the whole House to-morrow.

On motion of Mr. RANDOLPH,

*Resolved*, That the committee appointed to inquire into the official conduct of Samuel Chase and Richard Peters, be empowered to send for persons, papers, and records.

The committee on the petition of William H. Harrison, made a report that it ought to be rejected.—Referred to a Committee of the Whole.

Mr. EARLY, from the Committee of Accounts, reported a resolution directing that in future the stationery used by members shall be drawn on the order of each member, and entered in a book to be kept by the Doorkeeper.—Agreed to.

The House took up the amendments of the Committee of the Whole to the bill further to amend the act to lay and collect a direct tax within the United States; and having agreed to the same, with amendments, ordered the bill to a third reading on Thursday.

WEDNESDAY, January 11.

Mr. S. L. MITCHILL, from the Committee of Commerce and Manufactures, to whom was committed, on the fourth instant, the bill sent from the Senate, entitled "An act to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States, made a report thereon; which was read, and, together with the said bill, referred to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of the captors of the Moorish armed ships Meshouda and Mirboha; and, after some time spent therein, the bill was reported with several amendments; which were twice read and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" in which they desire the concurrence of this House.

*Ordered*, That the bill further to amend the act, entitled "An act to lay and collect a direct tax within the United States, as amended by the House, on the tenth instant, and ordered to be engrossed for a third reading on Thursday next, be recommitted to a Committee of the whole House immediately.

The House resolved itself into the said committee; and, after some time spent therein, the Committee rose and reported progress.

#### VIRGINIA YAZOO COMPANY.

On a motion made and seconded,

"That the agent or agents of the Virginia Yazoo Company, 'claimants of compensation under the late cession and convention between the State of Georgia and the United States, and the acts lately passed by Congress thereon, as purchasers of land in the Mississippi Territory, in the year one thousand seven hundred and eighty-nine, from the said State of Georgia,' be heard in person, or by counsel, at the bar of the House, on Monday next:—"

The question was taken thereupon, and resolved in the affirmative—yeas 61, nays 49, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Silas Betton, Phaniel Bishop, George W. Campbell, John Campbell, William Chamberlin, Joseph Clay, John Clopton, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, William Dickson, John B. Earle, Ebenezer Elmer, John W. Eppes, Thomas Griffin, Roger Griswold, James Holland, Benjamin Huger, Samuel Hunt, William Kennedy, Michael Leib, Joseph Lewis, jr., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Samuel L. Mitchell, Thomas Moore, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Thomas Plater, Samuel D. Purviance, John Randolph, jr., Thomas M. Randolph, John Rhea of Tennessee, Jacob Richards, Cesar A. Rodney, Thompson J. Skinner, James Sloan, John Cotton Smith, Henry Southard, Joseph Stanton, James Stephenson, Samuel Taggart, Samuel Thatcher, Philip R. Thompson, George Tibbits, Abram Trigg, John Trigg, Philip Van

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*Danish Brigantine Henrick.*

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Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

**YAYS**—Isaac Anderson, Simeon Baldwin, George Michael Bedinger, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Martin Chittenden, Clifton Claggett, Frederick Conrad, John Davenport, John Dennis, Thomas Dwight, James Elliot, William Findley, Edwin Gray, Andrew Gregg, Gaylord Griswold, Samuel Hammond, Josiah Hasbrouck, Seth Hastings, William Helms, William Hoge, John G. Jackson, Andrew McCord, David Meriwether, Nahum Mitchell, Nicholas R. Moore, Jeremiah Morrow, James Mott, Anthony New, John Patterson, John Rea of Pennsylvania, Erastus Root, Thomas Sandford, Joshua Sands, Ebenezer Seaver, John Smilie, John Smith of New York, Richard Stanford, William Stedman, John Stewart, Samuel Tenney, Joseph B. Varnum, John Whitehill, and Marmaduke Williams.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That the South Carolina Yazoo Company be heard by their agent, on Monday next, at the bar of the House:

And the said motion being twice read at the Clerk's table, a motion was made and seconded to amend the same, by striking out all the words from the word "Resolved," in the first line, to the end of the motion, and inserting, in lieu thereof, the following words: "That this House will, on Monday next, hear all the agents of the different companies claiming lands south of the State of Tennessee, who may choose to speak at the bar of this House."

And on the question that the House do agree to the said amendment, it passed in the negative. And the main question being taken that the House do agree to the said motion, as originally proposed, it was resolved in the affirmative—yeas 67, nays 46, as follows:

**YAYS**—Willis Alston, jun., Nathaniel Alexander, Simeon Baldwin, Silas Betton, Phaniel Bishop, Adam Boyd, George W. Campbell, William Chamberlin, Joseph Clay, John Clopton, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Dennis, William Dickson, Thomas Dwight, John B. Earle, James Elliot, Ebenezer Elmer, John W. Eppes, John Fowler, Thomas Griffin, Roger Griswold, James Holland, Benjamin Huger, William Kennedy, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Samuel L. Mitchell, Thomas Moore, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Thomas Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, Jacob Richards, Cæsar A. Rodney, Erastus Root, Joshua Sands, James Sloan, John Cotton Smith, John Smith of Virginia, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

**NAYS**—Isaac Anderson, George Michael Bedinger, William Blackledge, John Boyle, Robert Brown, Joseph Bryant, William Butler, Levi Casey, Martin Chit-

tenden, Clifton Claggett, Frederick Conrad, John Davenport, William Eustis, William Findley, Edwin Gray, Andrew Gregg, Gaylord Griswold, John A. Hanna, Josiah Hasbrouck, William Hoge, David Hough, John G. Jackson, Walter Jones, Matthew Lyon, Andrew McCord, David Meriwether, Nahum Mitchell, Nicholas R. Moore, Jeremiah Morrow, James Mott, Anthony New, John Patterson, John Rea of Pennsylvania, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, Richard Stanford, John Stewart, David Thomas, George Tibbits, Joseph B. Varnum, John Whitehill, and Marmaduke Williams.

On motion, the House adjourned.

THURSDAY, January 12.

The bill sent from the Senate, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States,'" was read twice and committed to a Committee of the whole House to-morrow.

*Ordered*, That the Committee of Ways and Means, to whom was referred, on the third instant, a motion relative "to the prosecution, trial, and punishment of persons guilty of crimes arising under the revenue laws of the United States, or incurring fines or forfeitures by breaches of the said laws, at any time within five years after committing the offence, or incurring the fine or forfeiture," be discharged from the consideration thereof; and that the said motion be referred to the Committee of the whole House to whom was this day committed the bill sent from the Senate, entitled "An act in addition to the act, entitled 'An act for the punishment of certain crimes against the United States.'"

Mr. THOMAS, from the committee appointed on the subject of post offices and post roads, to whom was recommended, on the nineteenth ultimo, their report relative to the means by which the mail may be conveyed with greater despatch than at present between the City of Washington and Natchez and New Orleans, made a supplementary report thereon; which was read, and referred to a Committee of the whole House on Monday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to incorporate the Directors of the Columbian Library Company, with an amendment; to which they desire the concurrence of this House.

A message from the Senate communicated to the House certain proceedings of the Senate relative to the impeachment of John Pickering, Judge of the District Court of the United States for the district of New Hampshire.

DANISH BRIG HENRICK.

The House resolved itself into a Committee of the Whole on the supplementary report of the Committee of Claims, of the third instant, to whom was recommended their report on a motion relative to a provision for the relief of the owners of the Danish brigantine Henrick, and the documents accompanying the same; and, after some time spent therein, the Committee rose and re-

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*Danish Brigantine Henrick.*

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ported a resolution thereupon; which was read, as follows:

*Resolved*, That the sum of — dollars ought to be appropriated, out of any moneys in the Treasury not otherwise appropriated, to enable the President of the United States to make such restitution, as shall appear to be just and equitable, to the owners of the Danish brigantine, called the *Henrick*, and her cargo, which were recaptured by an American armed vessel, in the year one thousand seven hundred and ninety-nine, and sold by order of the Vice Admiralty Court in the British Island of St. Christopher.

The House then proceeded to consider the said resolution at the Clerk's table, and the same being again read, the question was taken that the House do agree to the said resolution, as reported from the Committee of the whole House, and resolved in the affirmative—yeas 108, nays 15, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Phanuel Bishop, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, George W. Campbell, John Campbell, Levi Casey, William Chamberlin, Clifton Clagget, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, John Dawson, John Dennis, William Dickson, Thomas Dwight, John B. Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, William Helms, James Holland, David Holmes, David Hough, Benjamin Huger, John G. Jackson, William Kennedy, Nehemiah Knight, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Nahum Mitchell, Samuel L. Mitchill, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, John Patterson, Oliver Phelps, Thomas Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Joshua Sands, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Cotton Smith, John Smith of New York, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Lemuel Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—William Butler, Martin Chittenden, Samuel W. Dana, James Elliot, Edwin Gray, Thomas Griffin, Roger Griswold, Seth Hastings, William Hoge, Michael Leib, Thomas Sammons, Thomas Sandford, John Stewart, George Tibbits, and Peleg Wadsworth.

*Ordered*, That a bill or bills be brought in pursuant to the said resolution, and that the Committee of Claims do prepare and bring in the same.

An engrossed bill for the relief of the captors of the Moorish armed ships Meshouda and Mirboha, was read the third time: whereupon, Mr. SPEAKER stated the question, that the said bill do

pass; and a debate arising thereon, the House adjourned.

FRIDAY, January 13.

A Message was received from the President of the United States, transmitting a report of the Director of the Mint. The Message was read, and, together with the report, ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report and sundry documents marked A, B, and C, exhibiting an account of the money received for the support of sick and disabled seamen, and designating particularly the sums collected and expended at each port, prepared in obedience to a resolution of this House of the twenty-first ultimo, which were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from Edward Tiffin, Governor of the State of Ohio, transmitting a certified copy of an act of the Legislature thereof, declaring the assent of the said Legislature to an amendment proposed by Congress, in lieu of the third paragraph of the first section of the second article of the Constitution of the United States; which were read, and ordered to lie on the table.

The SPEAKER laid before the House a letter from the Secretary of the Navy, accompanying "a statement of all the moneys advanced for the pay, clothing, subsistence, and contingencies, of the corps of marines, from the time of the organization and establishment of that corps, to the close of the last year, exhibiting the dates of the advances, and to whom made; also, an account, stating, generally, under each head of expenditure aforesaid, when, and by whom, and what amount of money has been accounted for, and showing the balance now in advance and not accounted for," in pursuance of a resolution of this House of the third instant; which were read, and ordered to lie on the table.

On motion, it was

*Resolved*, That a committee be appointed to revise the rules and articles for the government of the Army of the United States, and that they report by bill, or otherwise.

*Ordered*, That Mr. VARNUM, Mr. HELMS, Mr. DANA, Mr. BUTLER, and JOSEPH LEWIS, junior, be appointed a committee pursuant to the said resolution.

The House resumed the consideration of the question depending yesterday at the time of adjournment, "that the engrossed bill for the relief of the captors of the Moorish armed ships Meshouda and Mirboha do pass?" And, after farther debate thereon, the said question was taken, and resolved in the affirmative.

Mr. JOHN COTTON SMITH, from the Committee of Claims, presented a bill to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*; which was read twice, and committed to a Committee of the whole House to-day.



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Direct Tax—Judge Pickering.

JANUARY, 1804.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act to incorporate the Directors of the Columbian Library Company:" Whereupon,

*Ordered*, That the said amendment, together with the bill, be committed to Mr. FINDLEY, Mr. PHELPS, Mr. NAHUM MITCHELL, Mr. CLAIBORNE, and Mr. LOWNDES.

The House resolved itself into a Committee of the Whole, on the bill to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*; and, after some time spent therein, the bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time on Monday next.

#### DIRECT TAX.

The House again resolved itself into a Committee of the Whole on the bill further to amend the act, entitled "An act to lay and collect a direct tax within the United States;" and, after some time spent therein, the Committee rose and reported several amendments thereto; which were twice read, and agreed to by the House.

A motion was then made and seconded that the said bill, as amended by the House, be recommitted, and it passed in the negative.

Another motion was then made and seconded farther to amend the said bill, as amended, by striking out the sixth section thereof, being the fifth section of the original bill, in the words following, to wit:

*"And be it further enacted*, That whenever any tract of land or lot shall have been sold, or shall hereafter be sold for non-payment of the direct tax, and for a larger sum than the amount of such tax, with the legal costs and charges, the collector of the said tax shall be accountable to the purchaser for the excess of money paid by such purchaser beyond the amount of such tax, charges, and costs: And deeds shall be executed in favor of such purchasers only for so much of the land as shall bear the same ratio to the whole quantity of land sold: And whenever a deed shall be executed for a part only of any tract of land, not described previous to the sale, such part shall be laid off at the expense of the purchaser, under the direction of the District Court, and in conformity with the instructions given to the collector, by the supervisor, or officer acting as supervisor, respecting the sales of lands sold for non-payment of the direct tax:"

And the question being taken that the House do agree to the said amendment, it passed in the negative—yeas 31, nays 80, as follows:

YEAS—Nathaniel Alexander, Isaac Anderson, Silas Betton, William Blackledge, Adam Boyd, George W. Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Samuel W. Dana, John Davenport, John Dawson, Thomas Dwight, James Elliot, Roger Griswold, James Holland, David Hough, Samuel Hunt, John B. C. Lucas, Matthew Lyon, James Mott, Gideon Olin, John Cotton Smith, William Stedman, Samuel Thatcher, Abram Trigg, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Marmaduke Williams, and Joseph Winston.

NAYS—Willis Alston, junior, Simeon Baldwin, David Bard, George Michael Bedinger, Robert Brown, Joseph Bryan, William Butler, John Campbell, Levi Casey, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dennis, John B. Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Findley, Andrew Gregg, Thos. Griffin, Samuel Hammond, Wade Hampton, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Helms, William Hoge, Benjamin Huger, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, junior, Henry W. Livingston, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, junior, Joseph H. Nicholson, Beriah Palmer, John Patterson, Oliver Phelps, Thomas Plater, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cesar A. Rodney, Thomas Sammons, Thomas Sandford, Joshua Sands, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of New York, Henry Southard, Richard Stanford, Joseph Stanton, James Stephenson, John Stewart, Samuel Tenney, David Thomas, Philip R. Thompson, George Tibbits, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Richard Winn, and Thomas Wynns.

*Ordered*, That the said bill, with the amendments agreed to, be engrossed, and read the third time on Monday next.

#### JUDGE PICKERING.

The proceedings of the Senate, communicated yesterday by their Secretary, relative to the impeachment of John Pickering, Judge of the District Court of the United States for the district of New Hampshire, were read, and are as follow:

"IN SENATE OF THE UNITED STATES.

*"High Court of Impeachments, January 12, 1804.*

"THE UNITED STATES *vs.* JOHN PICKERING.

"Mr. Tracy, from the committee appointed to examine precedents, and to prepare the forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors, reports, in part, as follows:

*"Resolved*, That a summons issue, directed to the said John Pickering, in the form following, viz:

*"United States of America, ss.*

"The Senate of the United States of America, in their capacity of a Court of Impeachments to John Pickering, Judge of the District Court for the district of New Hampshire, greeting: Whereas the House of Representatives of the United States of America did, on the fourth day of January, exhibit to the Senate, then sitting as a Court of Impeachments, articles of impeachment against you, the said John Pickering, charging you with high crimes and misdemeanors therein specially set forth in the words following, viz: [Here insert the articles.]

"And did demand that you, the said John Pickering, should be put to answer the accusations of high crimes and misdemeanors as set forth in said articles; and that such proceedings, examinations, trials, and judgments, might be thereupon had, as are agreeable to law and justice. You, the said John Pickering, are, therefore, hereby summoned to be and appear before the Senate of the United States of America, in their capacity of a

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Court of Impeachments, at their Chamber, in the City of Washington, on the second day of March next, then and there to answer to the said articles of impeachment, and then and there to abide by, obey, and perform such orders and judgments, as the Senate of the United States, acting in their said capacity of a Court of Impeachments, shall make in the premises, according to the Constitution and laws of the said United States. Hereof you are not to fail.

"Witness, AARON BURR, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this twelfth day of January, in the year of our Lord one thousand eight hundred and four, and of the Independence of the United States the twenty-eighth.

"Which summons shall be signed by the Secretary of the Senate, and sealed with their seal; and served by James Mathers, Sergeant-at-Arms to the Senate, who shall serve the same pursuant to the directions given in the next following resolution:

"Resolved, That a precept shall be endorsed on said writ of summons, in the form following, viz:

"United States of America, ss.

"The Senate of the United States, in their capacity of a Court of Impeachments, to James Mathers, Sergeant-at-Arms to the Senate, greeting: You are hereby commanded to deliver to, and leave with, John Pickering, Esquire, District Judge of the district of New Hampshire, if to be found, a true and attested copy of the within writ of summons, together with a like copy of this precept, showing him both; or, in case he cannot with convenience be found, you are to leave true and attested copies of the said summons and precept at his usual place of residence; and in which ever way you perform the service, let it be done at least thirty days before the appearance day mentioned in the said writ of summons. Fail not, and make return of this writ of summons and precept, with your proceedings thereon endorsed, on or before the appearance day therein mentioned in said writ of summons.

"Witness, AARON BURR, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this twelfth day of January, in the year of our Lord one thousand eight hundred and four, and of the Independence of the United States the twenty-eighth.

"Which precept shall be signed by the Secretary of the Senate, and sealed with their seal.

"Resolved, That the Secretary of the Senate be, and he is hereby directed to pay the necessary expenses arising upon the process aforesaid, after the same shall be allowed by the President of the Senate for the time being, out of the fund appropriated to defray the contingent expenses of the two Houses of Congress; and the Secretary of the Senate is hereby authorized and directed to advance out of the said fund to said James Mathers, for his travelling expenses, the sum of two hundred dollars, to be by said James Mathers accounted for in a final settlement for his services.

"Resolved, That the Secretary of the Senate do acquaint the House of Representatives of the foregoing resolutions, and deliver to them a copy of the same.

"And the report was adopted.

"Attest: SAM. A. OTIS, *Secretary.*"

*Ordered.* That the said proceedings of the Senate do lie on the table.

A message from the Senate communicated to the House certain farther proceedings of the Senate relative to the impeachment of John Pickering,

Judge of the District Court of the United States, for the district of New Hampshire.

The said proceedings of the Senate were read, and are as follow:

"IN SENATE OF THE UNITED STATES.

"*High Court of Impeachments, January 12, 1804.*

"THE UNITED STATES vs. JOHN PICKERING.

"Mr. Tracy, from the committee appointed to examine precedents, and to prepare forms necessary in the trial of John Pickering, impeached by the House of Representatives of high crimes and misdemeanors, report, in part, as follows:

"Resolved, That, whenever application shall be made to the Secretary of the Senate for a subpoena or subpoenas for witnesses, by the House of Representatives, either by their managers of the impeachment, or in any other proper way, or by the party impeached, or his counsel, acknowledged as such by the Senate sitting as a Court of Impeachments, he shall issue to such applicant a subpoena or subpoenas in the following form, viz:

"To [here name the witnesses and residence] Greeting:

"You and each of you are hereby commanded, laying aside all excuses, to appear before the Senate of the United States, in their capacity of a Court of Impeachments, on the — day of —, at the Senate Chamber in the City of Washington, then and there to testify your knowledge in the cause which is before said Court of Impeachments for trial, in which the House of Representatives have impeached John Pickering, Judge of the District Court for the district of New Hampshire, of high crimes and misdemeanors. Fail not.

"Witness, AARON BURR, Vice President of the United States of America, and President of the Senate thereof, at the City of Washington, this — day of —, in the year of our Lord one thousand eight hundred and four, and of the Independence of the United States the twenty-eighth, which shall be signed by the Secretary of the Senate, and sealed by their seal.

"Which subpoena shall be directed, in every case to the marshal of the districts where such witnesses respectively reside, to serve and return.

"Resolved, That the Secretary of the Senate do issue twelve subpoenas for witnesses in the above form, for the use of the said Pickering, with blanks therein for such witnesses as he, the said Pickering, may think proper to summon, which subpoenas shall be delivered by the Sergeant-at-Arms to him, at the time he shall serve the summons aforesaid on the said Pickering.

"Attest: SAM. A. OTIS, *Secretary.*"

*Ordered.* That the said proceedings of the Senate do lie on the table.

MONDAY, January 16.

A Message was received from the President of the United States, transmitting the proceedings of the Commissioners appointed to receive possession of Louisiana.

The Message, and the documents transmitted therewith, were read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States

by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the said bill: Whereupon, the said amendments, together with the bill, were referred to the Committee of Ways and Means.

An engrossed bill to enable the President of the United States to make restitution to the owners of the Danish brigantine called the *Henrick*, was read the third time, and passed.

The House, in pursuance of a resolution agreed to on the eleventh instant, proceeded to the hearing of Alexander Moultrie, agent of the South Carolina Yazoo Company, at the bar of the House; and thereupon, the said agent being fully heard, withdrew from the bar.

On a motion made and seconded,

"That the order of the day for the House to hear William Cowan, agent of the Virginia Yazoo Company, in person, or by counsel, at the bar of the House, on this day, be postponed until Thursday next:"

The question was taken thereupon, and resolved in the affirmative.

On motion, it was

*Resolved*, That the SPEAKER of this House be requested to transmit to the Secretary for the Department of State of the United States, the letter from Edward Tiffin, Governor of the State of Ohio, enclosing a certified copy of an act of the Legislature thereof, declaring the assent of the said Legislature to an amendment proposed by Congress, in lieu of the third paragraph of the first section of the second article of the Constitution of the United States, which were received, read, and ordered to lie on the table, on the thirteenth instant.

#### DIRECT TAX.

An engrossed bill further to amend the act, entitled "An act to lay and collect a direct tax within the United States," was read the third time; and, on a motion made and seconded, amended by unanimous consent, at the Clerk's table. And on the question that the said bill, as amended, do pass, it was resolved in the affirmative—yeas 100, nays 18, as follows:

YEAS—Willis Alston, junior, Isaac Anderson, Simeon Baldwin, David Bard, George Michael Bedinger, Adam Boyd, Robert Brown, Joseph Brown, Joseph Bryan, William Butler, John Campbell, Levi Casey, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, Thomas Dwight, John B. Earle, Peter Early, Ebenezer Elmer, John W. Eppes, William Eustis, Wm. Findley, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, G. Griswold, R. Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, J. Heister, Wm. Helms, William Hoge, David Holmes, Benjamin Huger, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Andrew McCord, William McCreery, David Meriwe-

ther, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Beriah Palmer, Oliver Phelps, Thomas Plater, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Caesar A. Rodney, Thomas Sammons, Thomas Sandford, Joshua Sands, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Cotton Smith, John Smith of New York, John Smith of Virginia, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Tenney, David Thomas, Philip R. Thompson, George Tibbitts, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Lemuel Williams, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Nathaniel Alexander, Silas Betton, William Blackledge, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, William Dickson, James Elliot, Edwin Gray, James Holland, David Hough, John B. C. Lucas, James Mott, Gideon Olin, Henry Southard, Peleg Wadsworth, and Matthew Walton.

#### TUESDAY, January 17.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," with an amendment, to which they desire the concurrence of this House.

#### STATE BALANCES.

The House resolved itself into a Committee of the Whole, on the motion of Mr. RODNEY, to extinguish the State balances.

MR. RODNEY.—I hope the Committee will agree to the resolution as modified, and to the extinguishment of the balances reported against the several States. It is true, as has been remarked, when the subject was before the House sometime since, that it has been repeatedly under discussion, and that by this time it is probably perfectly understood and familiar to every member. It is true that it has heretofore undergone an investigation, more able, perhaps, than I am able to give it; I believe, however, every time it has been discussed, its friends have increased in number. I flatter myself, therefore, there can be no objection to inquiry into its merits at this period, because I believe that those who have heretofore voted one way, have sufficient magnanimity, if it shall be made clearly to appear that these balances ought to be extinguished, to think for themselves, without regard to any previous opinions they may have imbibed. It is honorable to any person to alter his opinion whenever he is convinced of his error. Besides, there are a great number of new members in this House who will not be disposed to pin their faith on the sleeves of their predecessors. It is well known the State I have the honor to represent is more affected by the heavy balance against her hanging over her head, than any State in the Union. It will be recollected, agreeably to the report of the Commissioners who settled the accounts between the United States and the re-

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spective States, that \$612,000 were reported to be due by her; this with interest from the year 1793. amounts to about \$1,000,000. This is a very serious subject to the State of Delaware; one which she severely feels; which depreciates the price of her land and paralyzes the industry of her citizens. I beg leave to say it is not my object to touch the settlement of the Commissioners, so far as it regards the creditor States; like the ark of the covenant, I deem it too sacred to be touched by impure hands. I am likewise far from imputing to them any improper or unjust motives whatever. Whilst I subscribe to this doctrine, and that the creditor States receive the balances reported in their favor, permit me to take a retrospective view of the business, to show, so far as can be proved from the nature of the case, that there may have been, nay, must have been, some important mistake in the settlement, the Commissioners having no standard to resort to, by which to determine with mathematical or arithmetical certainty what was due by the States. If the Committee shall be of opinion that some mistake may have occurred, when they consider that so far as relates to the claims of the creditor States, they have been provided for, I trust they will view with indulgence the claims now made by the debtor States.

When in consequence of the acts of a flagitious Ministry, who attempted to forge chains for our free country, America rose as one man to assert her rights and destroy the tyranny of that Government which wished to enslave her, she was understood as one nation engaged in a common cause; certain articles of Union were proposed, one of which stipulated that the proportion in which each State should contribute to the general defence, should be according to the value of lands in the respective States. It will be recollected that the Articles of Confederation were not agreed to until the war had nearly terminated, and that this ratio was not uniformly acted upon by Congress as the basis on which requisitions were made. It was not relied on in all cases and on all occasions; if it had been agreed upon, Congress would have still been at a loss how to proceed. Every apportionment must therefore have necessarily been arbitrary. In this embarrassing situation, with a view to relieve themselves from the difficulties which surrounded them, Congress, in the month of April, in the year 1783, recommended to the several States the adoption of that rule of apportionment which is to be found in the Federal Constitution. This rule, however, was not adopted by the States, until it was incorporated in that instrument. I mention these facts to show that there was no permanent, universal, and unerring foundation on which the ratio of taxation rested. If each member of the Board of Commissioners, had possessed the fiscal talents and financial knowledge of the present Secretary of the Treasury, and instead of the comparatively short time they were occupied in the settlement, had consumed a series of years, it is scarcely within the confines of possibility, and much less of probability, that they should have attained in ev-

ery case substantial justice. It will be recollected what was the nature and extent of the accounts which they had to adjust. *Rudis indigesta que moles*. They were not accounts kept with the regularity of those of a merchant's counting-house, they were not confined to the transactions of a single voyage, nor to the business of one company, but comprehended the complicated transactions of independent States, the multiplied and intricate accounts of entire sovereignties, and those too, not in time of peace, but during the stormy period of a Revolution, in which we were contending against one of the most powerful nations in Europe for our liberties and independence. I believe them to have done the best they could, and to have attempted faithfully to bring about a settlement so important to be effected, and which Congress, as early as 1787, attempted to make. Congress in that year passed a resolution by which the States were districted, and Commissioners appointed to go through the several States to receive accounts; but all those accounts were warranted by acts of Congress themselves; at the same time they constituted a Board to audit accounts for particular defence, and such as were not authorized by the resolutions of Congress, considering what a State did for herself she did for the Union.

Thus the business rested when the Federal Constitution was brought about; that Constitution the State of Delaware had the honor first to adopt, and was, I believe, the only State whose Legislature adopted it unanimously. When Congress met under the Constitution, the general principle on which the settlement of the accounts of the several States should take place was not much disputed. No man pretended to say, when South Carolina was overrun with internal foes and subject to civil war, the United States were not benefited in proportion to the efforts she made to crush those enemies; everything she did was for the general good, and every man acquiesced in the justness of the principle, that she should bring forward her accounts for particular as well as general defence, and it was seen that the United States would fall in debt from this circumstance to every State in the Union: every State had to contend with the external enemy, or with the internal foe in the shape of insurrections.

It may be proper at this place, to advert to the report of the Secretary of the Treasury, which laid the foundation for the assumption of the State debts. I am not about to inquire into the policy of the measure, or whether it was best to be effected in this way, in that, or the other; I take it as I find it; when examined, it will be found that the then Secretary thought the ratio or rule of apportionment adopted by the Commissioners under the act of Congress, passed in the year 1790, would not be the correct one, as will appear from the report and supposititious statement made by him of the relative situation of the different States, as debtor, and creditor. Delaware, so far from being considered at that time as a debtor State, was contemplated in the light of a creditor State, and in proportion to her ability

more so than any in the Union. I will read a passage or two from the report, and advert to the statement. The Secretary, after concluding that a discrimination ought not to be made between original holders and subsequent purchasers, proceeds to examine "whether a difference ought to be permitted, to remain between them and another description of public creditors—those of the States individually.

"The Secretary, after mature reflection on this point, entertains a full conviction that an assumption of the debts of the particular States by the Union, and a like provision for them as for those of the Union, will be a measure of sound policy and substantial justice.

"It would, in the opinion of the Secretary, contribute in an eminent degree to an orderly, stable, and satisfactory arrangement of the national finances.

"Admitting, as ought to be the case, that a provision must be made in some way or other, for the entire debt, it will follow that no greater revenues will be required, whether that provision be made wholly by the United States, or partly by them, and partly by the States separately.

"There is an objection, however, to an assumption of the State debts, which deserves particular notice. It may be supposed that it would increase the difficulty of an equitable settlement between them and the United States.

"The principles of that settlement, whenever they shall be discussed, will require all the moderation and wisdom of the Government. In the opinion of the Secretary, that discussion, till further lights are obtained, would be premature.

"All, therefore, which he would now think advisable on the point in question, would be, that the amount of the debts assumed and provided for, should be charged to the respective States, to abide an eventual arrangement. This the United States, as assignees to the creditors, should have an indisputable right to do.

"But as it might be a satisfaction to the House to have before them some plan for the liquidation of accounts between the Union and its members, which, including the assumption of the State debts, would consist with equity, the Secretary will submit in this place such thoughts on the subject as have occurred to his own mind, or been suggested to him, most compatible, in his judgment, with the end proposed.

"Let each State be charged with all the money advanced to it out of the Treasury of the United States, liquidated according to the specie value at the time of such advance, with interest at six per cent.

"Let it also be charged with the amount, in specie value, of all its securities which shall be assumed, with the interest upon them, to the time when interest shall become payable by the United States.

"Let it be credited for all moneys paid and articles furnished to the United States, and for all other expenditures during the war, either towards general or particular defence, whether authorized or unauthorized by the United States; the whole liquidated to specie value, and bearing an interest of six per cent. from the several times at which the several payments, advances, and expenditures accrued.

"And let all sums of Continental money now in the treasuries of the respective States, which shall be paid into the Treasury of the United States, be credited at specie value.

"Upon a statement of the accounts according to these principles, there can be little doubt that balances would

appear in favor of all the States, against the United States.

"To equalise the contributions of the States, let each be then charged with its proportion of the aggregate of those balances, according to some equitable ratio, to be devised for that purpose.

"If the contributions should be found disproportionate, the result of this adjustment would be, that some States would be creditors, some debtors to the Union.

"This plan seems to be susceptible of no objection, which does not belong to every other, that proceeds on the idea of a final adjustment of accounts. The difficulty of settling a ratio is common to all. This must, probably, either be sought for in the proportions of the requisitions, during the war, or in the decision of the Commissioners, appointed with plenary power. The rule prescribed in the Constitution, with regard to representation and direct taxes, would evidently not be applicable to the situation of parties, during the period in question."

He then makes a supposititious statement, by which it appears that Delaware was considered as having a demand against the United States of about \$10,000. [Here Mr. Rodney particularly adverted to the statement below.]

It may abundantly appear to the minds of gentlemen that in this business it was impossible, from the nature of the case, for the Commissioners to ascertain with mathematical certainty the balances due to or from any one State to the United States. If considered in this point of view, I hope gentlemen will be not over anxious in pressing the debtor States for every shilling alleged to be due by them, when the creditor States have had their demands fully satisfied.

When we advert to the particular case of the State I have the honor of representing, we shall find abundant reason why her balance should be extinguished. The State of Delaware does not stand in need of any eulogium from me, and, if she did, I am not accustomed to the language of panegyric; but I may say, that in proportion to her resources, her efforts in the Revolutionary cause were second to no State in the Union. When we find in the report that the State of Delaware was not heard before the Commissioners, though she requested a hearing, gentlemen may account for the extraordinary result of a settlement so far as related to her. She was told, it was true, she might have a hearing, but she was informed at the same time that the case on which she desired to be heard was already decided; this will appear from an official document laid before the Senate of that State.

"The late Commissioner for stating and supporting the claims of this State against the United States, in obedience to the order of the honorable the General Assembly of the 17th instant, makes the following report:

"Having in his report to the General Assembly at October sessions, 1791, exhibited a general statement, he now transmits the particular accounts, as far as they are in his possession, from whence the said statement was drawn.

"The accounts exhibited to the district Commissioners, marked No. 1, in general statement, are contained in a book lodged in the office of the Board of Commis-

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sioners, which book ought now to be returned to this State. These included all charges for general defence, depreciating certificates, recruiting accounts, supplies to the army, and every other expense which could be supported against the Union under the ordinance of May 7, 1787.

“The accounts in the second line, marked No. 2., are for general and particular defence; containing expenditures by the State, not warranted by resolutions of Congress, and therefore inadmissible under the ordinance of May 7, 1787. This is accompanied by a sheet marked No. 2, and an account of particulars answering to No. 19, in the said sheet.

“The accounts in the third line, marked No. 3, being for payments on warrants and requisitions of Congress, was drawn from the books of the State, in the Auditor’s office, and needs no explanation.

“The late Commissioner reports what he mentioned in his former report, that he never had an opportunity given him to advocate the claims of Delaware, after their first delivery. He applied to the Commissioners several times, both personally and by letter, to know when he should attend for that purpose. The answer was, that notice should be given him; and the notice was, that his further attendance was unnecessary, as the Commissioners had already determined on the accounts of Delaware.

“All which is respectfully submitted.

“ELEAZER M’COMB.

“Wilmington, January 25, 1794.

“Also were delivered the general account, with the other papers and documents referred to in the aforesaid report, which said general account stood as follows:

A General Statement of Charges exhibited against the Union by the State of Delaware.

Description of accounts.	Old emissions.	Specie.
1. Amount of accounts to the District Commissioners - - -	\$131,142 14	\$206,547 34
2. Amount of acc’ts exhibited for general and particular defence -	68,960 38	45,402 92
3. Amount of payments on warrants and requisitions of Congress -	3,060,941 66	128,278 64
Total - - -	\$3,261,044 19	\$380,228 90

Note.—Fractions of cents omitted.

I do not mean to impute improper motives to the Commissioners, but merely to state a fact proved by the highest authority. The simple, plain, and stubborn fact is, that in this settlement Delaware was not heard; and I call on gentlemen to bring the case home to their own business and bosoms. Suppose they were individually condemned to pay sums to an enormous extent without being heard, would they consider it fair or just? It is a maxim of eternal and immutable justice to hear both sides before a decision is made, and I have heard it observed by a celebrated character, that he was an unrighteous judge who decided without hearing both parties, even where

SCHEDULE A.

Supposititious Statement of Accounts between the United States and individual States.

STATES.	Ratio.	Balances due to the States respectively.	Proportion of each State of the aggregate of these balances, according to the ratio.	Balances against certain States.	Balances in favor of certain States.	Proportion of each State, in the aggregate, of the balances against certain States.	Ultimate balances in favor of certain States, upon the principle of an extinguishment of the balances owing by the debtor States, and a proportional allowance to the creditor States, adjusted according to the ratio given, and to be paid by the United States.
New Hampshire - - -	3	\$57,500	\$60,000	\$2,500	-	\$3,000	\$500
Massachusetts - - -	8	180,000	160,000	-	\$20,000	8,000	28,000
Rhode Island - - -	1	20,000	20,000	-	-	1,000	1,000
Connecticut - - -	5	110,000	100,000	-	10,000	5,000	15,000
New York - - -	6	135,000	120,000	-	15,000	6,000	21,000
New Jersey - - -	4	72,500	80,000	7,500	-	4,000	-
Pennsylvania - - -	8	170,000	160,000	-	10,000	8,000	18,000
Delaware - - -	1	30,000	20,000	-	10,000	1,000	11,000
Maryland - - -	6	110,000	120,000	10,000	-	6,000	-
Virginia - - -	10	187,500	200,000	12,500	-	10,000	-
North Carolina - - -	5	90,000	100,000	10,000	-	5,000	-
South Carolina - - -	5	87,500	100,000	12,500	-	5,000	-
Georgia - - -	3	50,000	60,000	10,000	-	3,000	-
Total - - -	65	\$1,300,000	\$1,300,000	\$65,000	\$65,000	\$65,000	\$94,500

he decided correctly; because he acted against the first maxim of justice, and because his decision, though right, was the effect of accident. If this statement be correct, will not gentlemen advert to the fact and suffer it to make a proper impression on their minds? It appears, from the account of Mr. McComb, that \$3,261,044 was furnished by Delaware in paper money, and \$380,228 in specie. Much of the first description of money was paid before it had undergone any considerable depreciation by the scale established in that State. Owing to fortuitous circumstances the paper medium was better, and the State had to pay more, of consequence, than any other State in the Union. By the laws of Delaware it will also appear that Congress no sooner made a requisition than the Legislature of that State passed an act to comply with it—no sooner was the call made than the people were compelled to pay their taxes to meet it. Every requisition Congress made till the year 1787, was promptly complied with, and on some occasions we raised more than *sixty thousand dollars a year* to enable us to comply with the requisitions of the United States; and it will be found from the report of the Auditor of the State, (Thomas Montgomery,) a man every way qualified for that situation, for the year 1794, that, prior to the year 1784, there was not a single tax levied that was not paid, nor a single county behindhand a single dollar. Afterwards there was a small balance remaining unpaid by the county of Sussex, a smaller from the county of Kent, and a still smaller perhaps from the county of Newcastle. I mention these circumstances to show that more must have been paid by that State than is allowed in the settlement, for all this money was certainly levied and collected from the pockets of the people of that State; and to prove that the account rendered by our Commissioner (Mr. McComb) against the United States, was accurate and just. An account supported by such plain, unequivocal testimony as the solemn acts of our Legislature, and the report of that officer to whom the State confided the superintendence of her finances, for sums of such magnitude, in specie as well as in paper currency, ought to make a favorable impression on the members of this Committee. It proves most manifestly that our State contributed the sum of — in Continental money and — in gold or silver coin towards the exigencies of the war, besides the services of her soldiers, than whom none were braver, especially those who composed her intrepid regiment. One charge of the United States against the several States referred to a certain species of certificates, known by the name of *depreciation certificates*, given to the officers and soldiers in consequence of the depreciation of their pay. At this moment there lie in her chest sixty or eighty thousand dollars of these certificates, and, if she had been disposed to act unfairly, she might at the proper time have loaned them, and that amount might have gone into the coffers of the State, but she would not descend to this act, she was disposed to do as she would be done by, and I trust this will be considered as a meritorious act on her part.

In some laws found in our volume, particularly in a law of 1787, it will be found that the State of Delaware was compelled to pay requisitions whose proportion was greater than they ought to have been according to any known federal rule. Still, even when she considered the imposition made upon her more than it ought to be, when her representatives in the Legislature in the act of 1787 declared, "that her proportion was greater than it ought to be on any known or acknowledged principle of federal taxation," she cheerfully acquiesced and paid the money required from her. It has been, I believe, on a former occasion when this subject was before the House, ably and eloquently observed by my friend from Virginia (Mr. J. RANDOLPH) that if the State of Delaware had been asleep during the whole Revolutionary conflict, and had not contributed a cent or soldier to the common cause, the balance charged against her could not amount to the enormous sum of one million of dollars. When, on the contrary, we take into consideration the great sums which she actually paid, and the gallant soldiers furnished in her regiment and from her militia, ought not gentlemen to listen to the reasons now urged, and ought they not to have great weight on the minds of liberal and candid men? As I said before, I do not mean to impeach the original settlement; but if such an inexplicable result has occurred in the case of Delaware, what may not have occurred in the settlement of the accounts of the other States? With their cases I am unacquainted. I will not, therefore, trespass on the patience of the Committee further on this score, but considering the subject in this favorable point of right as to Delaware, I will advance to the strongest ground which presents itself.

How are the United States by any competent authority to obtain payment of these balances? Are they to put any State to the ban of the empire? Are they to make war upon any State by means of an army on land or a navy at sea? This is a position for which, I presume, no gentleman will contend. Are they to fund the balances due in the proportion of the creditor States? If it is the wish of gentlemen to add to our debt millions, I know not how many, the object may, perhaps, be accomplished in this way; but such a measure, I presume will not be adopted. Will gentlemen then preserve this bone of contention with the States? For a bone it literally is; it contains not an atom of nutrition to the United States. Will they preserve it when it will not bring one shilling into their pockets? will they keep alive this coal which may hereafter be fanned into a flame, and which may, at some future day, become a subject of compromise, not to say bargain, and may be made an instrument of much greater injury even to the creditor States than the nominal balances can possibly be of benefit to them? Remember that two of the principal debtor States are, from their wealth and numbers, among the most respectable in the Union. If you will keep these balances suspended over them, what may not be apprehended? If the subject be considered in this point of view, it will appear that it is for



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the interest of the whole United States that these balances should be done away. It is for the interest of the creditor States that no subject of dispute may remain—that the hatchet may be buried. Their balances are already funded; and if the debtor balances be extinguished, these will be considered as sacred. And need I say that it is for the interest of the debtor States? They, year after year, have called for the extinguishment.

With regard to the State of Delaware, the continuance of these balances is of the most serious injury to her. I know an honorable Senator from Maryland, who owns lands on both sides of the line which separates Delaware from Maryland, who cannot get as much by one-third for his land in Delaware, as for that within the borders of Maryland, although the land in Maryland is part of the same tract, and of precisely the same quality as that in Delaware. Is not this of some importance to the State of Delaware? is it not enough to distress, and essentially to check, the progress of her citizens in every laudable pursuit? must it not necessarily tend essentially to retard the improvement of her land, to depress trade and to paralyze industry, and all this without one scintilla of use to the United States or to any State in the Union? I hope the Committee, considering the subject in this view, will agree to the resolution, impressed with the opinion that it would be equally for the welfare of the United States, for those States which are debtor, and for those which are creditor, to adopt it.

Mr. ELMER.—I agree in opinion with the gentleman from Delaware, who introduced the resolution on your table, that it involves in it an important and interesting question. And I am, with him, fully persuaded that every member of this Committee will weigh the consequence of it with that seriousness and candor which it demands, and decide upon it, after the most mature deliberation, according to his sense of justice and propriety, notwithstanding any prejudices or preconceived opinions which he may have formed. But I can by no means agree in sentiment with him, that some mistake must have taken place in the settlement of the accounts between the United States and the individual States, nor that any such mistake ought to be presumed of so serious a nature as to induce the Supreme Legislature of the land to extinguish the balances found due from the debtor States, by the strong arm of sovereign authority.

Upon what foundation, sir, does this resolution rest? What are the facts or reasons which have or can be adduced to prove the settlement erroneous in point of principle or equity, or to justify Congress to abolish an important part of it? The gentleman alleges, that in apportioning the expenses of the Revolution, which proved so glorious, and happily relieved us from the tyranny of a foreign Power, among the several States, the Commissioners deviated from the rule prescribed by the Articles of Confederation, upon which the requisitions of the old Congress were founded, in a point which materially affected some of the debtor States. But it should be observed, that this line of conduct was authorized by the laws of the United

States, in conformity with the Constitution, and upon the most correct principles that could be established. No other method could have produced a settlement at all. And, further, it was well calculated to insure an equitable settlement—at least, a more equitable one than could be obtained in any other way. Several of the States which were found debtor were then increasing rapidly in wealth and population, and are still increasing, far beyond the creditor States, or any former calculations. Can it then be pretended, with the least color of propriety, that, under these circumstances, it was either unfair or unequitable to apportion the expenses of the Revolution according to the enumeration of the inhabitants of each State? In my judgment, the measure was correct and legitimate.

In order to show that the State of Delaware could not be justly charged with all the balance found against her, the gentleman has produced a supposititious statement, made by the Secretary of the Treasury in his report to Congress, on the subject of funding the State debts. This statement however was, as far as appears, wholly supposititious, not bottomed on a single data, and very probably introduced into the report with no other view than to induce Congress to pursue those measures with relation to the public debt which he was then intent upon. It cannot with any shadow of reason be brought in competition, or in the least degree to invalidate a settlement made by men specially appointed for that purpose, acting under the solemnity of an oath, and who spent much time and pains to make a correct and equitable adjustment of all the accounts.

The honorable gentleman has further urged, as an objection to the settlement, that the agent for the State of Delaware complained, at the time, of the conduct of the Commissioners in refusing to hear him in support of the claims which he exhibited. But this, like most other objections, will vanish in empty air when fairly examined. I always understood that none of the State agents were heard any further than to explain or elucidate their accounts. The agent for New Jersey, I, know, was as fully debarred of a hearing before the Commissioners as the agent of Delaware. It is perfectly clear to me, that it would have been highly improper to have heard the agents; and I very much doubt whether all the eloquence of the honorable gentleman, aided by all the learned councils of the nation, would have altered the opinion of the Commissioners, or produced a different result. Besides, it has not been shown that any of his accounts were rejected; and, if not, it would have been perfectly idle to have spent time in advocating them. No partialities for or against particular States have been made to appear against the Commissioners, and none can, with any propriety, be imputed to them. The settlement, therefore, has the appearance of being as correct as the nature of the business and other circumstances rendered practicable, and ought to be maintained by the nation.

Mr. Chairman, could I be impressed with the propriety and justice of the measure, and could

I be persuaded that it would tend to strengthen the bands of the Union and promote the peace and harmony of the States, I would, with as much cordiality as any gentleman of the Committee, give my assent to the resolution on your table. But, sir, there are several objections which operate forcibly on my mind against it. I fear it would tend to destroy, or at least greatly to weaken, the principle of distributive justice, which is the band of our union, and which we are most solemnly bound to maintain and support with scrupulous exactness. The public debt, as has been well observed, arose out of the exigencies of the Revolution—it is the price of our glorious emancipation—and the balances resulted from the equalization of that debt among the parties benefitted.

When pressing emergencies compelled Congress to call upon any State to furnish supplies or troops beyond her estimated quota, she always accompanied the request with assurances that she would be remunerated upon the final adjustment of the accounts. In consequence of this, great and efficient aid was frequently afforded to the common cause, which could not otherwise have been expected or obtained. When peace arrived, Congress did not lose sight of her promises, but, in 1787, constituted a Board of Commissioners for the apportionment and liquidation of all the debts incurred during the war, and clothed them with ample powers to distribute the most complete justice that was attainable; and the States were called upon to exhibit their respective accounts. After the adoption of the present Constitution, a law was passed confirming the ordinance of the old Congress, and prescribing the mode that was to be observed in the liquidation of the accounts. This solemn transaction, so long in maturing, could never have been intended as a mere mockery of the parties concerned. It was predicated upon Federal principles, and was designed to obtain substantial justice. Thus instituted and appointed, the Commissioners proceeded, with great care and laborious investigation, to the liquidation of the accounts; and, after great length of time, struck the balances with as much justice as could possibly be attained. Some inequality of a partial nature might probably have taken place, yet none of a very serious nature can fairly be supposed. And shall we now, when the documents are destroyed, or placed without our reach, and without any evidence of incapacity or corruption in the Commissioners, proceed to disannul their proceedings by extinguishing the balances which they reported? I trust not. Justice and propriety, in my mind, forbid the measure.

Further, Mr. Chairman, the resolution on your table is objectionable inasmuch as it would exhibit to the nation and to the world an instance of inconstancy in our Councils, and thereby weaken the confidence of individuals and of the respective States in the wisdom and stability of the General Government. It has on its front an anti-federal aspect, and in every point of view exhibits an incorrect principle of legislation, and extreme impropriety.

The gentleman from Delaware has endeavored

in a variety of ways, and with great ingenuity, to impress the Committee with a belief that the State which he represents was relatively hard dealt by in the settlement, and, therefore, in reason and justice, she is not bound to pay the balance due from her. But all his labor on this head will have but little weight. We shall probably hear the same tale from the members of the creditor as well as the debtor States, and the dispute on this subject would be futile and endless. I believe I could make some gentlemen of this Committee believe that New Jersey suffered as much injustice, if not more, in the liquidation of the accounts than Delaware. In fact, sir, there are very strong reasons for suspecting that a State which was for almost the whole period of the war the theatre of hostile manœuvres, and frequently occupied by large contending armies, must have had accounts to a very large amount for military services, and supplies for our army in distressing times, in such an irregular and unsupported form as to be excluded upon the principles adopted for their adjustment. And whatever credit may be due to other States, and much merit is attached to all of them, I must contend that in zeal, activity, and energy, New Jersey was second to none. But I shall not dwell on this topic. Every observation of this kind is totally irrelative to the present subject. I rely upon the correctness of the settlement, which, I repeat, ought to be presumed, as it was made with great deliberation, under the solemn authority of the General Government, and in part at least ratified and confirmed by subsequent acts.

After occupying ultimately a variety of less eligible stations, the gentleman took his stand upon what he styles strong ground, beyond the reach of every assault. He asks how the debtor States are to be compelled to pay? Will the United States employ physical force, and lay them under contributions at the point of the bayonet, with fleets and armies? No, this is not contemplated by any gentleman. We should all start at the proposition. But the gentleman himself has suggested a method of obtaining these balances, which, although I do not know that it is contemplated by any person, is certainly by no means repugnant to the principles of our Government; and that is, to fund a sum equal to the balance due to the debtor in favor of the creditor States, in a ratio proportionate to their respective credits. We, however, do not call upon them for payment in any way. We are content to let the matter rest in the present situation of business—and why should not the debtor be content? But it is asked why keep up this bone of contention, which does not contain an atom of nourishment? Why keep alive a spark which may be blown up into a desolating flame? But may we not ask, in our turn, from whence does this contention proceed; and what reason can be given for relinquishing a claim so well sanctioned? It would illy comport with that magnanimity and heroic patriotism which the whole Union has exhibited to the view of an admiring world, for the debtor States to refuse payment on a proper occasion. I cannot entertain the idea. The State of New York has

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already expended a considerable sum on the terms held out to her by law, and she has ample resources for doing more, honorable to herself, and advantageous to the public.

If the whole sum should prove hard and oppressive upon the some of the debtor States, let it be lightened, and the mode of payment made easy and convenient to them. I am far from wishing that any State should ever pay anything that would prove burdensome and oppressive upon her citizens. But stability and consistency forbid us to stretch forth the arm of sovereignty and with one dash blot out a debt ascertained with so much care and founded on principles so correct and truly federal. The measure might be attended with evil consequences which the most sagacious do not apprehend, and which the wisest may not hereafter be able to prevent.

Mr. Chairman, this subject has been so often discussed, and is so well understood by the nation and by the members of the House, that it is not probable any arguments which can be adduced will change the sentiments of any one. I shall, therefore, conclude with expressing my firm persuasion that the resolution on your table ought not, and my confidence is that it will not pass.

Mr. THATCHER was decidedly opposed to the extinguishment of these balances due from the debtor States; and as the State which he had the honor to represent was deeply interested in this question, he should attempt a reply to what had been advanced in support of this resolution, and should briefly state his reasons for voting in the negative.

These balances, said Mr. T., were found due upon a settlement of the demands of the respective States for services and supplies during our Revolutionary war. Although Congress, no doubt, equalised the burden as much as possible, during the Revolution, it was found, at the close of the war, that the States had contributed to the common defence in very unequal proportions. It was well known that the New England States, in particular, had furnished more than their respective quotas of men and money. From a sense of this inequality, Congress submitted the debts due from and to the several States, to a Board of Commissioners who, for several years, investigated the subject with the most minute and laborious attention. During this time each State had an opportunity to present and to substantiate its claims; and the report of the Commissioners has been repeatedly sanctioned by Congress. Although, as the gentleman from Delaware has said, the State which he represents was not heard before the Commissioners by its special agents, this was the case of all the States.

It is impossible, said Mr. T., as the gentleman from New Jersey has observed, to examine the ground upon which this report was formed. From the loss of documents, the lapse of time, and the vast extent of the subject, this is certainly impracticable. It is not even proposed by the mover of the resolution. The gentleman from Delaware has not arraigned the motives of the Commissioners, but he conceives that, upon a just settle-

ment, the State he represents could not have been found so much in arrears; although he calls upon us to expunge the sums reported against the debtor States, he is willing that those reported to be due to the creditor States should be paid. Sir, said Mr. T., I conceive that the debts and credits must stand upon precisely the same ground. They both resulted from one settlement, and it is impossible to separate them. Upon what ground can we pay the creditor States, if we admit that nothing is due from the debtor? He conceived that expunging these balances, as contemplated by the resolution, upon the ground of a partial or unjust settlement, would most clearly imply that the sums awarded to the creditor States are not due. This, of itself, would render it unjust and impolitic to extinguish the balances due from the debtor States.

Another argument in favor of the resolution is, that the debtor States cannot be compelled to pay these balances. If that be correct, where is the injury to the debtor States which has been exhibited in such lively colors? If the States cannot be compelled to pay these debts, how can they so materially reduce the value of real estates? How can they hang in terror over their heads? It is even said that it is dangerous to suffer these debts to remain. No evils have yet resulted to the United States, said Mr. T., from this source, nor could he perceive that any were to be apprehended. He knew there was in this House a majority of about thirty members, who represented debtor States, besides those from States formed out of debtor States; but he had too firm a reliance upon their sense of justice to suppose, that because gentlemen were the majority, they would vote themselves out of debt. Surely, said Mr. T., when gentlemen reflect that these sums are due for those exertions which achieved the Independence of America, they will acknowledge the justice of the claim. The State of New York (the largest debtor State) has already paid a part of its debt, under a law of Congress authorizing that State to apply the sums expended upon fortifications to the reduction of these balances. Shall we relinquish the claim because some of the States do not acknowledge the debt? The idea is inadmissible.

We are urged, sir, to adopt this resolution, because it is said Delaware can never pay her debt. Even if that be correct, it is no argument for expunging these balances. By adopting the resolution, we extinguish our claim, not only against that State, but against all the others. The conclusion will then be irresistible, that we question the accuracy and the fairness of the settlement, and the final consequence will probably be the extinguishment of the credits also.

This settlement cannot be disturbed upon any ground consistent with policy or good faith. It is the result of a reference voluntarily made by all parties concerned, and they are conclusively bound by the award.

Mr. THOMAS remarked, that as this subject had been so often before the public, so much had been said on it on former occasions, and he considered

it so well understood, that he had determined not to have risen or said anything on it at this time, nor would he, had he not deemed it necessary to reply to the gentleman from Massachusetts (Mr. THATCHER.) That gentleman has endeavored to impress the Committee with an opinion, that by extinguishing those balances we shall affect the credits of the creditor States; this said Mr. T. will not be the case; those States have received the whole of the balances reported in their favor, and extinguishing the balances reported against those called debtor, cannot possibly affect the credits of the creditor States; besides, if the credits of those States could have been affected by a measure of this kind, why did not the act of Congress passed in 1799 affect them? By the operations of that act, about one-half of the amount of those balances were extinguished had the States complied with the terms of it; and he would ask the gentleman from Massachusetts, or any other gentleman on that floor, whether these credits, as they are called, were impaired by that act? He presumed no one would say that they were, nor can the measure contemplated in this resolution impair them in the least.

Mr. Chairman, said Mr. T., what possible good can result from a continuation of those claims? All agree that a payment of them cannot be coerced; and it cannot be expected that those States, believing the claims unjust, will pay those balances voluntarily; therefore, will your Treasury ever be a cent the richer by holding these claims over the heads of those States? Will it bring a cent into your Treasury? But, on the contrary, may not much evil result to the interests of this country by keeping up this bone of contention? Will it not have a powerful tendency to irritate the minds and disturb that cordial harmony so necessary to be preserved among the members of this Union? I trust the members of this Committee generally will see the folly of continuing the shadow of a claim over the heads of those States any longer, which can never be of any benefit, but which may be productive of much mischief, and will unite in expunging them from your records.

Mr. STANTON.—Mr. Chairman, the honorable member from Delaware, who introduced the resolution on your table for extinguishing the balances found due to the United States from the debtor States, says the aggregate amount is \$3,517,582; the proportion of Delaware is about \$600,000.

The honorable member from that State tells us, with his usual pathos, and great zeal, but without producing any proof, that the State he represents is much injured by the settlement made by the Commissioners for settling the accounts of the United States with the individual States, that the citizens of Delaware have suffered a diminution in the value of their land, by having this enormous debt hanging over their heads; at the next moment, the honorable gentleman asserts, that there is no coercion in the General Government to oblige debtor States to pay the balances. If his position be correct, he may dismiss his fears, and so may his constituents, the people of Delaware. Mr.

Chairman, I ask where is the policy of this measure; can the Legislature relinquish these balances, and at a single stroke, as with a sponge, wipe them off, without violating the public faith deliberately and solemnly pledged? I hope they will not; respect to the former Government, as well as to ourselves, forbid the idea. But we are told, by the advocates of the resolution, that it never will be paid; if that is a sound doctrine, it goes to prove the inexpediency of passing the resolution. Mr. Chairman, this is turning the tables; whereas it has been the practice for ages, that the creditor call on the debtor, but in this instance the old order of things is reversed, and the debtor duns the creditor: this novel mode would suit my circumstances well, as I am largely in debt; but such a practice must not be indulged; in my opinion it is dangerous to society. Sir, I will refrain from bringing into view a comparison of the exertions of the States in the Revolutionary war, lest a comparison should wound the feelings of gentlemen. I am convinced that they all did their utmost, and the exertions of the State I have the honor to represent were inferior to none in the Union. I can assure the honorable mover of the resolution, that the citizens of Rhode Island have the most reason to complain of the settlement of any State in the Union; the reason is obvious, the law under which the Commissioners acted, was so framed as to exclude one-third of our debt, by a clause in the law, constituting the board, in these words—"Nor shall the claim of any citizen be admitted as a charge against the United States, in the account of any State, unless the same was allowed by such State, before the 24th September 1788." In consequence of this clause in the statute, three hundred thousand dollars, in the accounts of the State of Rhode Island against the United States, for services rendered, and supplies furnished during the Revolutionary war, was included. Two of the Commissioners gave me this information, and very much regretted that it was not in their power to do us equal justice with our sister States; they also remarked that the charges for similar services rendered, were five per cent. on an average lower than charges made by the Southern States. Sir, if it were practical to obtain a revision of the settlement, I would, in behalf of the State of Rhode Island, cheerfully embrace it, under a full persuasion of extricating that State I have the honor of representing from the severe burden of taxation they are now struggling under. Taking it for granted that a reconsideration cannot be effected, I hope the resolution will be rejected. Sir, if it should be asked how it came to pass that our debt was so large, I would answer, in consequence of the British fleet and army taking possession of Newport, and all the valuable land of Narraganset Bay, also Block Island, and remaining three years in the bowels of the State, annihilating our commerce, burning our towns, plundering our inhabitants, dragging them into prisons, and stripping the shores of their stock. Sir, I will not longer trespass on the indulgence of the House, but content myself by giving my hearty negative to the resolution.

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Mr. BLACKLEDGE.—Mr. Chairman, I had determined not to trouble the Committee with any remarks upon the subject now under discussion, from a conviction that enough had already been said by the gentleman from Delaware to satisfy every liberal mind of the propriety of adopting the resolution. But, sir, when I hear the gentleman from Massachusetts (Mr. THATCHER) applying epithets to those States that are reported debtors, calculated to stamp them with the character of profligate dishonesty, while others in an indirect way appear to be aiming at the same end, I feel it a duty I owe the State which I have the honor to represent in part, to assign the reasons why she has heretofore refused, and I am convinced will ever continue to refuse paying the balance reported against her. Every gentleman who has as yet spoken against the resolution, has endeavored to impress upon the Committee a belief that the settlement made by the Commissioners was either just, or at least as nearly so as was possible. But, sir, on this subject I must beg leave to differ in opinion with them; and if I can be favored with the attention of the Committee, I trust I shall be able to show clearly that by the operation of some of the principles by which the Commissioners were governed in this settlement, the State of North Carolina was in the first place charged with a much larger proportion of the national debt than she ought to have been, and in the next place, that her charges against the Union, or at least a large portion of them, were improperly valued at a much lower rate than they should have been, and from hence it has happened that she was reported a debtor instead of being made a creditor to a very considerable amount.

The first injury sustained by the State of North Carolina in this settlement, which I shall notice, is the one which arose from changing the ratio by which the several States were bound to each other to bear all the expenses of the war. That the Committee may the more clearly comprehend the force of her exception against this measure, I must beg them to bear in mind that every item in the accounts which were settled by the Commissioners were for advances which had been made by the several States, towards defraying the expenses of the war, previous to the 24th day of September, 1788; while the States were bound by the Articles of Confederation, and each was suffering all the disadvantages, and enjoying all the advantages arising from that instrument; and that the ordinance by which the Board of Commissioners was established for settling these accounts, was passed by the old Congress on the 7th of May, 1787. They will thus see that the whole of the charges originated, and that the Board of Commissioners was established for settling them previous to the adoption of the present Constitution; and from hence I think they will be induced to conclude with me, that Congress had not a right to vary the ratio as they did by their act of the 5th of August, 1790, without first obtaining the consent of the several States to the measure, in the manner pointed out by the Articles of Confederation.

By the eighth article of the Confederation the States stipulate to bear all expenses of war, each in proportion to all its appropriated lands and improvements, but reserve to their respective Legislatures the power of laying and levying the taxes necessary to pay off their quotas; and by the thirteenth article of that instrument, they provide that no alteration shall at any time be made in the Articles of Confederation, or any of them, unless such alteration be agreed to in a Congress of the United States, and be afterwards confirmed by the Legislatures of every State. Yet, sir, after the Commissioners had been appointed, and had actually been nearly or quite two years engaged in the settlement, when it may be presumed that the amount of the charges of each State was pretty nearly known, as well as the effect which a settlement of them according to the principles of the Articles of Confederation would have, Congress proceeded by their act of the fifth of August, 1790, to direct the Commissioners, in apportioning the debt of the Union among the States, to do it according to the number of polls which each should contain, as prescribed by the Constitution. Thus, sir, was the State of North Carolina, as well as some others, whose lands were of but little value compared with those of the commercial and wealthy States, deprived of every advantage which had been secured to them by the Articles of Confederation, without having any equivalent for the injuries they had been subjected to under that instrument; and this too when no one ever pretended that, by the Constitution, Congress possessed a power to alter the ratio. It is not possible to ascertain exactly the amount of the loss which any State sustained by this measure, because the gross amount of the accounts has "from motives of policy" been ever kept concealed. But by turning to the seventh volume of the old journals, in the year 1782, near the close of the war, we shall see what sum each State was required to raise of \$2,000,000, apportioned among them under the Confederation; and comparing that with the sums which each had to pay of the \$2,000,000 laid and collected, according to the ratio prescribed by the Constitution, we may form a pretty correct opinion of the effect which the measure had upon the different States. And it appears that of the \$2,000,000 raised in 1782, under the Confederation, North Carolina (at that time including all the State of Tennessee) had to pay \$148,000, and Virginia (at that time including all the State of Kentucky) had to raise \$290,000. Whereas of the direct tax of \$2,000,000 apportioned among the States, according to the principles of the Constitution, North Carolina and Tennessee had to pay \$212,504, Virginia and Kentucky \$387,132. From whence it results that North Carolina, in every two millions of the aggregate of all the charges of the several States against the Union, lost by the change of ratio the sum of \$67,701, and Virginia \$97,132. Then supposing the aggregate of the charges to have been but \$24,000,000, and judging by the sum reported against the State of Delaware, and admitting she never paid one cent, it must have been very nearly double that sum. North Carolina

must have lost by the change of ratio, the sum of \$774,048, and Virginia \$1,165,384. It would be an easy matter to show the effect which this measure had upon every State in the Union; but it would be foreign to my purpose, and I shall therefore decline it, with barely observing, that it is evident a considerable majority of the States were gainers by the measure.

In addition to the injury sustained by the State of North Carolina from the change of ratio, I must beg leave to mention another, which I have understood from the Commissioners who attended to the settlement of her accounts with the Union, she suffered from having her vouchers for currency certificates first reduced to their specie value, and then these as well as her specie certificates scaled at four shillings in the pound. By what authority, or upon what principle of equity or justice, the Commissioners felt themselves justified in doing this, I am at a loss to determine. The only reason assigned for it, as I have understood, was, that this was the rate at which the Legislature of the State had valued them. Now, sir, I admit that this was the sum at which the Legislature had rated her certificates; but it by no means follows as a consequence that the Commissioners, in the settlement of her accounts with the Union, did justice to her in giving her credit for them at the same rate. For, sir, it will be recollected that under the Articles of Confederation each State raised from its citizens, in the way most suitable to themselves, the different sums of money or supplies which Congress might require of them. It is also well known, that the great scarcity of specie rendered it necessary to resort to some expedient to supply the place of it, and that the first attempt was by issuing a paper currency, which depreciated rapidly, and in a short time fell upon the hands of those who held it. The next step was to issue certificates to those who either performed services, or furnished supplies in support of the common cause, purporting that the bearer was entitled to the amount thereof, either in currency or specie, from the State on whose account the service was performed or the supplies furnished. The paper currency which had been issued, having borne at the same periods in different States very different rates of depreciation, it was necessary, in order to do justice, that the Commissioners should be vested with power to scale the currency certificates in the different States, according to the value which the currency had borne in them respectively, and this power by the ordinance of May, 1787, was given them. Such, however, was the scarcity of cash in that State, that by far the greater part of the soldiers as well as others who had received even her specie certificates for services performed, or supplies furnished, had, some from necessity and others from a want of confidence in the Government, parted with them to speculators at about two shillings and six pence in the pound. This being a fact notorious to all, the Legislature of the State determined to do full justice to the speculator who had purchased the certificates at one eighth of their value, without oppressing the soldiers and

others who had paid full price for them; and in order to effect their object, they passed certain acts by which they depreciated even their specie certificates to four shillings on the pound. And by way of recompense to the soldiers for the loss they had sustained from the depreciation on their certificates, they made them very liberal donations of the unappropriated lands of the State, giving to the common war soldier six hundred and forty acres. And here, sir, I will beg leave to remark, that these were not what are commonly called Crown lands, but lands which had been granted by the Crown before the Revolution. I make this remark, because I know it is the opinion of some of the Committee that all the States had a right to any lands which, previous to the Revolution, belonged to the Crown, while all admit that lands which had been previously granted by the Crown belonged properly to the State within whose limits it lay. Now, sir, if the Commissioners in settling the accounts of this State with the Union, did not think she ought to be credited at a higher price for her certificates than she, for the reasons just mentioned, had thought proper to set upon them, they should at least have given her credit for the lands which she had given her soldiers as a recompense for the depreciation of their certificates. It will not, I presume, be pretended that they were ignorant of any advance having been made on lands to her soldiers, because, in searching for the laws by which she had rated her certificates, they could not fail seeing the one by which she had granted the lands to her soldiers. The operation of this principle of the Commissioners must have been very partial, as few of the States had adopted similar measures for paying off their certificates; and that its operation must have been unjust, will be obvious to the weakest mind when it is recollected, that the Union had received from the citizens of North Carolina full value in the services and supplies for which these articles had been issued by the State. If the citizens of any State thought proper by their Representatives in their Legislature to consent to give up to the State sixteen shillings in every pound of the debt, which the State in complying with the requisitions of Congress had contracted with them, and which the State alone under the Articles of Confederation stood responsible to them for; could this justify the Commissioners in adopting a rule by which they were to be compelled to pay to the other States the sums they had consented to give up to their own? Certainly not. And yet, sir, no man will say that this is not the obvious effect of this principle adopted by the Commissioners in the settlement of these accounts. The exact amount of the injury sustained by the State of North Carolina, by this rule of the Commissioners, it is impossible to ascertain; but when we recollect the enormous quantity of certificates which from the scarcity of specie were obliged to be issued for the pay of the army, and purchase of supplies, we may fairly conclude that the loss to her from this measure, fell very little short of that which she suffered from the changes of ratio.

These, sir, were the two principal injuries sus-

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tained by the State of North Carolina in the settlement of her accounts with the Union, and are the whole that I should have troubled the Committee with, had not the gentleman from Rhode Island, (Mr. STANTON,) with a view, I presume, of showing that the settlement was as fair for one State as another, inasmuch as all suffered by it more or less, told us that his State had lost a very considerable sum by the operation of that part of the act of Congress of the fifth of August, 1790, which prohibits the Commissioners allowing any claim, which had not been allowed by the State producing it previous to the twenty-fourth day of September, 1788. By the operation of the same part of that law the State of North Carolina also lost nearly \$100,000, which she has felt herself bound to pay principally to the heirs of those who had either fallen in the service or died soon after the close of the war, and had not come of age to claim their rights as early as the year 1788. The truth of this can be vouched by one of the present Senators from that State, as he was one of the board of auditors appointed by the Legislature to settle with the claimants, about the year 1791 or 1792.

I have now, sir, gone through the principal objections taken by the State which I have the honor to represent in part, to the settlement of her accounts with the Union, and I think it must be obvious to every candid person who has heard me, that if she had been settled with agreeably to the principles of equity by which the Commissioners under the ordinance of 1787 were directed to be governed, she must in the result have proved to be a creditor to a much larger amount than she has been reported to be in debt. By the change of ratio, admitting the aggregate of all the charges of the several States to have been but \$24,000,000, she lost better than \$770,000; by the very unjust rule adopted by the Commissioners in scaling her certificates she must have lost nearly as much, if not more; and by claims which were barred under the act of Congress of the 5th of August, 1790, she lost about \$100,000, making in the whole better than \$1,500,000. The sum reported against her is but little better than \$500,000, from whence it results that instead of being reported a debtor she should have been a creditor for about \$1,000,000. I feel myself bound to make this statement, after what has fallen from gentlemen, in the course of the debate, who have opposed the resolution upon the principle that they believe the settlement to have been just, or at least that it was made upon principles which operated nearly alike upon all the States. This, sir, it is evident was not the fact, for by the change of ratio a majority of the States were gainers to a very large amount, while the others were as largely losers; and the rule by which the specie certificates of North Carolina were scaled could not have applied generally, because there were but few of the States that had adopted the same method for extinguishing this part of their debt. But, sir, we have been asked by a gentleman from Massachusetts, (Mr. HASTINGS,) if there were such enormous injuries done to the States reported debtors

by the settlement, why was it not objected to, and the error pointed out at first, when they might have been examined into and corrected with ease? Why has it been let alone till this late period, when there is not the most distant hope that, were the accounts opened anew, a settlement could be effected, that would prove even as satisfactory as the one already made, and against which we so loudly complain? I am convinced that the gentleman has not examined this subject with his usual accuracy, or he would never have asked such questions. The fact is, that the settlement has been complained of by the Representatives from the State of North Carolina, as well as several other States, ever since the report was made; and at the very session when it was first published an attempt was made to bring to light the principles upon which the Commissioners had settled the accounts, with a view, no doubt, that the errors which had arisen from them might be corrected, and justice done to those States which had been injured by them. To prove this fact, I must beg leave to read a resolution which will be found in the Journals of the first session of the third Congress, page 247, in the following words:

*"Resolved,* That a committee be appointed to examine into, and report on, the practicability of obtaining a statement of the principles on which the accounts of the individual States with the United States have been settled, and a statement of the several credits allowed in the said settlement."

This resolution, sir, it appears was lost on taking the question by yeas and nays, and among those who voted in favor of it, will be found the whole of the Representatives from North Carolina, as well as many members from other States. In the Journals of the same session it will be found that when the bill was on its passage providing for the payment to the creditor States of the balances reported in their favor, an attempt was made to extinguish the balances reported to be due from the debtor States, by adding a section to the bill in the following words: "And be it further enacted, that the balances reported by the said Commissioners, and carried to the debt of certain States, be and the same are hereby relinquished." The section was rejected, but the yeas and nays not having been taken on the question, we are not able to say, to a certainty, who voted for it or against it. There can, however, be but little doubt as to who were the advocates or opposers of this section, when we attend to its objects, and see who voted for and against the resolution just read. The Committee I hope are now satisfied that the report of the Commissioners has never been tacitly acknowledged to be just, by the State of North Carolina, as well as several other States; they have seen that at the very session of Congress to which the report was first communicated, an attempt was made to bring to light the principles upon which the settlement had been made, in order that its errors might be exposed and justice done; and this attempt, they have seen, failed of success. The reasons why it failed I leave the Committee to conjecture for themselves. It also appears that at the same session an attempt was



made to extinguish the balances reported against the debtor States, and the Journals will show that repeated attempts have since been made for the same purpose, but that these attempts have uniformly failed of success.

The reasons which may have induced Congress formerly to reject the measure I know not. But I doubt not in the least, that the ingenuity and industry of the gentlemen who have on this occasion with so much zeal opposed the resolution, have enabled them to assign every reason against the measure which the nature of the case would possibly admit. In the first place all agree that the General Government does not possess the power of enforcing the payment of the balances, against the consent of the States. But the gentleman from Maryland thinks that, by continuing to refuse to extinguish the balances, the States may at length be induced to accept of offers to lay out either the whole or a part of the sums they owe, either in turnpikes, fortifications, or some other work of public utility within their own limits, as has been done by the State of New York formerly. What the State of New York or any other State may be induced to do, I cannot pretend to say, but I think I can venture to predict, that the gentleman will to a certainty be disappointed in any expectations of this nature which he may have calculated on from the State of North Carolina, and that for the reasons I have already mentioned. And really the gentleman must be much more sanguine in his expectation than I am, if he entertains any serious hopes of ever getting anything more, voluntarily, from the State of New York. Another plan has been hinted at by a gentleman from New Jersey, (Mr. ELMER,) by which the balances might be collected, which is by funding and apportioning them among the different States; but the gentleman had not the goodness to tell us how large a sum we should have to fund, or how it would have to be apportioned among the several States to carry his plan into effect. I wish he had done it, because I am convinced, if he had, it would have furnished one of the strongest arguments in favor of the resolution that could possibly have been adduced. My reason for thinking so is, because I do believe this is the only way in which the balances ever will be collected; and should the reins of this Government ever fall into the hands of men who believe, as some great men do, that a national debt is a national benefit, this will become a pretext for making a very large addition to the national debt; a thing which I conceive a very considerable majority of this Committee would not only discountenance, but would use their utmost exertions to prevent, and would of course advocate the resolution for extinguishing the balances altogether, rather than leave a pretext to those who may succeed them, for adding so largely to our national burdens. These are the only plans which have been suggested for collecting the balances; there are few I believe of the Committee who have any hope of ever getting them upon the one suggested by the gentleman from Maryland, and a still smaller number who would ever wish to see them collected upon the plan suggested by the gen-

tleman from New Jersey. What injury then can possibly arise from the adoption of the resolution? I confess I can see none. It is true, some gentlemen have said that it would excite in the States reported creditors a fear that attempts would be made to wipe off the balances which have been funded for them. The weakness and fallacy of this argument has been so ably shown by a gentleman from Pennsylvania, (Mr. SMILIE,) that I will not take up the time of the Committee in attempting to refute it; but will proceed to state what in my humble opinion will be the good effects resulting from an adoption of the resolution. In the first place I believe it to be certain that the State of Delaware will be relieved from the most distressing embarrassments. In the next place we shall remove a bone of contention, which in all probability would, on some future occasion, be the cause of some legislative bargain, that in effect may be extremely injurious to the Union. The unusual anxiety of the members upon this subject, at this time, justifies a belief that this will be the case, particularly should any attempt ever be made to collect the balances. In the third place we shall prevent a future waste of much of the precious time of this House on a subject which tends to excite too highly the feelings of a large portion of its members; and lastly, we shall take from those who may succeed us, and be disposed to add to the national debt, a pretext which would be but too favorable to their design.

As then I do not see that any real injury can, but on the contrary, that very considerable benefits certainly will follow, from carrying the object of the resolution into effect, I shall conclude with expressing my earnest hope that it may meet with the support of a majority of the Committee.

The resolution was further supported by Messrs. SMILIE, MACON, and MITCHILL, and opposed by Messrs. HASTINGS, GREGG, BOYD, SLOAN and DAVIS.

The Committee now rose, without coming to a decision, and obtained leave to sit again.

WEDNESDAY, January 18.

Mr. DENNIS, from the committee appointed, presented a bill to incorporate the Washington Building and Fire Insurance Company; which was read twice and committed to a Committee of the Whole on Monday next.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha:" Whereupon, the said amendment, together with the bill, were committed to the Committee of Ways and Means.

Mr. NEWTON observed that Congress having assumed jurisdiction over the Territory of Columbia, it became their duty to prevent laws existing therein from being oppressive in their operation. At present a person, though a citizen of a particular State, and prosecuted in his State for debt, might be held to bail in the Territory, without obtaining relief. Mr. N. after stating a recent

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case of this nature, moved the appointment of a committee to inquire whether any, and if any, what alterations are necessary to be made in the laws of the District of Columbia relative to holding persons to bail.

The resolution was agreed to, and a committee of five members appointed.

#### STATE BALANCES.

The House again went into a Committee of the Whole on Mr. RODNEY's motion to extinguish State balances.

MR. RODNEY.—I hope I shall receive the indulgence of the Committee in replying, in a very concise manner, to the remarks of gentlemen against the resolution which I have had the honor of submitting. The strong ground taken by the friends of the motion has not, in my opinion, been shaken by anything which has fallen from those who are opposed to it. We have stated that there exist on the books of the Treasury certain balances against particular States, which are productive of great injury to them, while they do not and cannot benefit the United States one dollar. Have gentlemen pointed out any mode in which the amount of these balances is to be obtained? Have they shown the way in which the United States can legitimately obtain a single cent? Have not gentlemen admitted that so far as these balances apply to the State I have the honor of representing, they affect her citizens most oppressively—that they sit like an *incubus* upon her, producing a stagnation in the culture and improvement of her lands, in the increase of the trade and commerce, and thereby checking the vital current of the country? And when the United States reap no benefit, will gentlemen say it is politic or just to keep them suspended over her head? What is their worth to the United States? If they should be taken to market, what would they bring? Is there a visionary speculator in the land that would bid sixpence for them? Do gentlemen contemplate compelling the payment of these balances? The amendment to the Constitution, inhibiting the suability of States, has put that remedy out of their reach forever. Do they expect that any State will voluntarily pay them? No. If then this is the situation of the business, is the object worth the candle consumed in discussing it on this, or on any other occasion? When the United States cannot pocket a cent from the continuance of these balances, and they are so injurious to some of the States, will the Government of the Union suffer the interests of those whom they are bound to protect to be thus seriously sported with?

By attention to the law passed by Congress on this subject, it will abundantly appear that it was never contemplated that the debtor States should make payment. For it appears to have been believed that every State in the Union had exerted itself in the common cause to the utmost; that the blood of the citizens of Delaware had been mingled with the blood of the citizens of South Carolina; that the citizens of the different States had fought, bled, and died together; that they had been confined in the same prison-ships, had inspired the

same impure air, and had died alongside of each other, and their bones are now bleaching on the same shores. That such was the intention of the framers of the law appears from this strong circumstance: It provides for the payment of the balances due to the creditor States, while there is no provision for the payment of the balances of the debtor States. For is there in that law any provision to compel the payment? Is there any direction to the Attorney General, or to any other organ of the Government, to prosecute the recovery of them? While there is a provision for funding the balances of the creditor States, the law is altogether silent as to any provision to coerce the payment by the debtor States of their balances. Am I not fully justified, therefore, in saying that coercion was never intended?

I fear that on one point I have been misunderstood. I stated yesterday, in the outset of my remarks, that it was my decided opinion, that the Commissioners had acted to the best of their judgments and according to honest consciences. I did not impeach their motives. I did not mean to be understood as desiring to touch the settlement they made. I afterwards, however, stated that from the nature of the country, comprehending an extensive range of communities of various habits, engaged in a revolution in which they were contending for the rights conferred upon them by God and nature, it was impossible, or extremely improbable to avoid the commission of honest mistakes: and that if this reasoning were supported, it would afford an additional reason why the United States should extinguish these balances. But did I question the justice of the proceedings or the motives of those who made the settlement? I did not. The utmost extent to which I went was that which I have just stated.

There is another point on which my remarks have been misconceived. I observed that by keeping in suspense these balances consequences might take place, by which the interests of States, now hostile to the extinction, might be seriously compromised. I did not say a bargain and sale might be made of these interests. I hope no such thing as this can take place. But I said a compromise might be effected, and I spoke of what might happen from what has happened. In this I find myself supported by the language of a respectable member in this discussion. I did not use this argument in the way of a threat; but I stated a fact, and, reasoning from experience and from human nature, I calmly inquired of the intelligence of the Committee whether such a thing might not possibly occur, and whether the possibility of its occurrence was not a strong reason for removing everything of the kind.

As long as these balances remain suspended over the heads of the debtor States they will be monuments of the imbecility of the General Government, and will, in the eyes of the world, present an unfavorable aspect of the disposition of several of the States to that Government. They will show that several States refuse to comply with the demands of the General Government, and that the General Government has not power to make

them comply. Ought not the Government, on this ground alone, when it is acknowledged on all hands that she is unable to exact these debts, and when their continuance operates so injuriously to several of the States, to abandon them?

I will take the liberty of noticing one or two other remarks which have fallen from different gentlemen in the course of this discussion. In this notice it is my wish to be brief, as the subject is so clear to my mind. My only wish is that I were the Representative of one of the creditor States, that I might plead with the greater effect the cause of the debtor States, believing, as I do, that this circumstance would not alter my opinion.

While gentlemen repel the charge made by us against the equitable operation of the settlement of the Commissioners they acknowledge that settlement, so far as it regards their own States, to be unjust. Because they have not been allowed a full indemnity for the services and supplies they have rendered, they are unwilling to suffer these balances to be extinguished so far as they bear hard upon the debtor States. They say, because they have suffered, they desire some companions in their misery. I do not think this a strong argument in their favor. On the contrary, I consider it as one of the strongest arguments for an extinguishment, as by the acknowledgment that the operation of the settlement is unequal, it lessens the obligation of the Government to adhere rigidly to it.

Let us then put this subject on its true grounds, let us view these balances, as they ought to be viewed, as not worth a pepper-corn to the Union, as not worth the time that is spent in this discussion; and, under this view, let gentlemen be asked what they sacrifice by giving them up. They abandon nothing that is valuable; while on the contrary they throw away the last apple of discord, and pave the way to the final closing of this unpleasant business.

But it is contended that the moment you extinguish these balances, you revive a right in the United States to call on the creditor States for a repayment of the balances funded in their favor. But surely this cannot be considered as a natural inference. Is such a principle assumed as the ground on which our arguments in favor of the extinguishment rest? Have we not, on the other hand, declared and pledged ourselves, that so far as regards the balances reported in favor of the creditor States, it is our desire that they may remain sacred forever. Those balances have been funded, and interest has been and is now receiving on them. They were given for their exertions in the common cause, and ought therefore to remain untouched. Besides, in the bill which will be brought into the House should this resolution pass a clause can be inserted making the stock now held by creditor States transferable to whom they please. Forgive us our balances and you heal the only remaining wound of the Revolution. With this view of the subject we ask gentlemen, yielding to a liberal and magnanimous spirit of accommodation, to agree to extinguish that debt whose continuance cannot benefit them, while it seriously injures us.

Mr. SOUTHARD.—I rise, Mr. Chairman, to give a reason for the vote I shall soon be called upon to give. Every member of this House who has preceded me on this question has drawn conclusions, and founded his opinion in favor of the State he represents, arising from the partial and circumscribed knowledge he has of the subject under consideration.

Gentlemen appear to have formed their judgment of the justice of the report of the Commissioners from what they themselves have seen or heard of the sufferings of the respective States from whence they came, during the Revolutionary war with Great Britain.

Were I, Mr. Chairman, to take the same ground and point out to you—by taking a view of the sufferings of the State I have the honor to represent—the supplies she furnished and the services she rendered, it would appear that she would not yield to any other State in the Union.

But I acknowledge my information is too limited to form my opinion from this source. I consider the Commissioners who settled the accounts between the United States and the individual States, and who reported those balances, as having been men of talents, knowledge, and integrity, mutually chosen by all the parties concerned; and that each State, by their agent, furnished them with the evidences of their respective claims, and therefore as standing on higher ground than any member on this floor, and possessed of more information on this subject than this House collectively.

It was well observed by the gentleman from Delaware who introduced this resolution into the House, that those balances were occasioned by, or grew out of the war. It was a common danger, sir, that pressed these States into the Union for their mutual defence against a powerful enemy. The old Congress under these circumstances entered into a Confederation, and resolved, that to defray the expense of the war, on final settlement, each State should bear its just proportion of the expense of the war, according to the principles therein prescribed. In pursuance of this object Commissioners were appointed, and several laws have been passed by Congress for the purpose of carrying those resolves into effect.

I consider, Mr. Chairman, the settlement just, from the subsequent acts of the National Legislature. The report of the Commissioners was accepted by the parties concerned, and the balances due the creditor States funded. But they went further; the State of New York actually paid about \$250,000 in part of the debt due from her. The Legislature of Pennsylvania made provision for the payment of the whole sum due from that State. North Carolina, another debtor State, and who was so much opposed, if I am rightly informed, when she ceded to the United States a part of her territory, now the State of Tennessee, bound the citizens of that district to pay their proportion of this debt. This, however, I am not certain of; I have it only from information. If I am wrong, the gentlemen from that State will correct me.

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I adduce these facts to show in what light Congress viewed this subject at the time when the Commissioners made their report. I presume the National Legislature at that time, though less in number, were as competent to judge of the justice of the settlement as this House now is, though more numerous.

But gentlemen in favor of extinguishing the balances, say the debtor States will not pay; and if they would, that there is no way pointed out for them to do it. If they will turn to the act of Congress passed February 15, 1799, they will there find that there is a way provided by law for these balances to be paid.

I am opposed to the resolution to extinguish, because it tends to weaken and destroy the confidence of the citizens of the United States in their Government, for the hand that would blot out the balances due from the debtor States has the same power to wipe off the whole debt funded in favor of the creditor States; the principle is the same, for if the report be unjust as to the debtors, it is so as to the creditors.

But the gentlemen ask, what advantage is there in holding those balances hanging over their heads? I answer, I consider them as a security for the payment of the debt already funded. Believing as I do that the settlement made by the Commissioners between the United States is as just as the nature of the case and the difficulties attending it would admit of, I hope the resolution on your table will not prevail.

Mr. VARNUM.—The resolution under consideration is for the extinguishment of the balances due from several of the individual States to the United States, as appears by a report of Commissioners appointed to adjust and finally to settle the demands of the several States for services rendered and supplies furnished the United States in the late Revolutionary war with Great Britain. This report was made on the 5th day of December, 1793. The whole amount of the balances due from the debtor States, and which is now proposed to be extinguished, is \$3,517,582. This resolution is supported on the ground that the settlement was unjust, and consequently that the balances found by it were improper and not due; and in fact, sir, I cannot conceive of any other ground on which an extinguishment could be supported, for it is evident that the debtor States are not deficient in ability to pay that which they justly owe; and if not deficient in ability, surely no other consideration can be sufficient to exonerate them from the payment. No principle, either political or moral, can justify an individual or a State in holding property justly due to another without the consent of the individual or State to whom it is due. In order to establish the position that the settlement was unjust, the gentleman from Delaware (Mr. RODNEY) has produced a document from the Comptroller of that State to show that Delaware did comply with the requisitions of Congress for a part of the time in which the United States were engaged in the war. And if it is granted that the statement is true, does that prove that the settlement was un-

just? No, sir, nor would any documents which can be produced of the services rendered by that State go to prove the fact without contrasting them with the services rendered by the other States in the Union; and gentlemen very well know that this cannot be done without a revision of all the documents of the services rendered and supplies furnished by each State in the Union during the whole of the war. Will Congress undertake to do this? If they will not, the documents which the gentleman has referred to must go for nothing. In fact, sir, they prove nothing relative to the question under consideration. Several other gentlemen have expatiated on the services rendered by the debtor States to prove that the settlement was unjust; and, sir, I might with as much propriety go into a detail of the services rendered by the State which I have the honor in part to represent on this floor to prove the reverse; but this might also be considered irrelevant to the question before you. Yet, as gentlemen have taken this ground, in justice to Massachusetts I shall be permitted generally to say that she was second to no State in the Union in point of exertion for the general defence during the whole of the war. Her exertions in furnishing men and supplies were general, uniform, and without a parallel. History does not in my opinion, since the first formation of civil government, give you an instance of any people ever having paid, according to their numbers and wealth, in the same length of time, so great an amount in specie value as was paid by the way of direct taxes by the people of Massachusetts in the ten years the next subsequent to the year 1777. At the close of the war, towns and individuals were deeply involved in debt, which had grown out of their exertions to furnish supplies for your armies, and to hire soldiers to fight the battles of the country, at a time when the credit of the nation could not produce them. The pressure of those debts, and the exorbitant taxes which had been unavoidably imposed by the State, drove the people into an insurrection, which, for a considerable time, assumed an aspect which threatened the destruction of all the fair prospects which had been acquired by the Revolution; but, thanks to Heaven, this insurrection happily subsided. But notwithstanding all their exertions, the assumption of a part of the debt by the United States, and the payment of the balance found due on the settlement in stock of the United States, yet, after all, the State was burdened with an unwieldy debt, which grew entirely out of the transactions of the war, and for the gradual extinguishment of which a heavy direct tax has from that period to the present time been annually imposed on the people, and must continue for years to come before the debt can be entirely extinguished. This being the case, while some of the debtor States have glided easily along without the imposition of a direct tax to the amount of a single cent for the discharge of the expense of the war during the many years which Massachusetts has labored under this pressure of taxation, has induced gentlemen the best informed on the subject to doubt whether the services of

that State had all been taken into the account ; but, sir, although the settlement was supposed to bear hard on that State, the people were determined to make the best of their situation, and not complain of a settlement which was made under so much solemnity, and, as they conceived, with the most upright intentions, so far as the perplexed state of the accounts would permit, to do equal justice to all the States.

The honorable SPEAKER, in order I presume to enforce on the minds of the gentlemen of this House the injustice of the settlement, has stated that the Commissioner of the great middle department has, since the report was made, stated on the floor of Congress "that those balances ought to be extinguished, and if it were not done, that he would unfold a tale which would make the hair stand on end, or some strong expression of that kind." The SPEAKER did not mention the name of the Commissioner who he said had uttered this sentiment ; but being so clearly designated that every gentleman present must know the Commissioner alluded to, there can be no harm in mentioning his name ; I conceive it must be General Irwin. When I look at the report and find that General Irwin is the first Commissioner who signed, it is difficult for me to reconcile the statement of the honorable Speaker with this document ; and when I recur to a more recent transaction, I am confident there must have been some misunderstanding in regard to the General's declaration, (for I am sure the honorable SPEAKER would not intentionally misrepresent it.) General Irwin did not only sign the report of the Commissioners, but there is at this time a letter in the possession of a gentleman of this House written by General Irwin since the commencement of the present session of Congress, and to which his signature is subjoined, stating that all possible pains was taken by the Commissioners to do equal justice to all the States in that settlement.

Now, sir, will this Committee conclude that General Irwin had, ten years ago, any frightful tale, to develop which would evince the injustice of this settlement ? Or will they not rather conclude that his signature, subjoined to the report under the solemnity of an oath, (for all the official transactions of the Commissioners were done under that solemnity,) together with his statement in the letter which I have mentioned, afford sufficient evidence that he has always considered the settlement a just one ? Another objection to the justice of the settlement is, because the expense of the war was not apportioned among the States by the value of their lands, agreeably to an article of the Confederation. It is an old adage that consent takes away error, and it is true that that mode of settlement was adopted by the unanimous consent of all the States. When a recurrence is had to the history of the whole transaction, I believe it will be found that this objection has no weight. Sir, I am far from entertaining a wish in the least degree to depreciate the exertions of any State in the Union in the Revolutionary war. I know they all made great exertions. Yet, sir, I presume it will not be derogat-

ing from the merit of any State to say, that the exertions of some of the States exceeded those of others. It is well known that in some of the States many of the citizens were inimical to the cause in which we were engaged, and did all in their power to assist the enemy in subduing our common country. This was a misfortune, although local in its operation, that was general in its effects, and it was generally lamented. Yet it did by no means detract from the merit of those citizens who were friendly in the same States ; but it goes to show that those States in which it happened did not, nor could not, do as much towards the common cause as those who had nothing of the kind to impede their exertions ; and, consequently, the improbability of the settlement being unjust as it relates to those States which stand the most indebted to the United States.

The ordinance which passed the old Congress in 1787, authorizing the settlement of the accounts of the several States against the United States, for services rendered and supplies furnished, during the war, makes as ample and liberal provision for an allowance of all the accounts exhibited, as could possibly be expected, or even asked, by any of the parties to the settlement : it was founded on the principles of mutual compromise, and by the unanimous consent of all the States. By the conditions of the settlement agreed upon by that ordinance, the public faith of each State was solemnly pledged to all the other States, and the public faith of the United States was solemnly pledged to each individual State, that the settlement, and proportion of the debt allotted to each State, by the Commissioners thus mutually agreed upon and chosen by all the States, should be final and conclusive. Soon after the establishment of the present Government, in the year 1789, a law was passed by Congress for facilitating the settlement and for filling vacancies in the board agreeable to the principles of the ordinance of 1787, and so far as I have discovered by a recurrence to the Journals, this law passed without any opposition. In 1790 Congress again assumed the consideration of the subject, and passed a law which recognised all the principles of the ordinance of 1787, and provided that a distribution of the whole expense should be made among the several States, according to the first census under the present Constitution. This law was also passed by the almost unanimous consent of the House, and in the Senate, where the State sovereignties are more particularly represented, it appears by the journals to have passed without opposition. Thus, sir, from the first agreement of 1787 to the final close of the settlement, all the States were unanimous in the mode prescribed for settlement, and stood most solemnly bound to each other to abide by it ; and the public faith of the nation was, by the several acts of Congress on the subject, most solemnly pledged to carry it into effect.

Can the Legislature then relinquish these balances, without a violation of plighted public faith ? And yet will they undertake to do it ? Sir, it is a fundamental principle in the governments of all civilized nations to pay the most sacred regard to

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plighted public faith. And, sir, the friends of our Government have derived much consolation from the idea, that the United States would never suffer their national character to be stained by a violation of this important national principle. Yet, sir, from what has taken place, it has been believed, that the United States would not be behind any nation on the earth in the preservation of this public virtue. But, if the resolution on the table should be passed into a law, this valuable principle will receive a wound which may lead to fatal consequences. I must be permitted to doubt the power of Congress to extinguish these balances without the concurrence of all the States. The settlement having been made under a solemn agreement of all the States, where will you find a power vested in Congress to alienate the interest which any individual State has acquired in the balance in consequence of that agreement, and vest it in another State? No such power is expressed in the Constitution, nor can I conceive it to be implied by anything which is expressed in that instrument. If then Congress have no Constitutional power to make the extinguishment, will not the transaction be considered an innovation on the rights of individual States, as well as a dereliction of the public faith?

A gentleman from New York has said that the extinguishment could not be a violation of public faith, because Congress had already given up part of the debt. It seems to me that the gentleman's conclusion does not naturally follow the premises which he has stated, for if it could, under any circumstances, be considered a dereliction of public faith to extinguish these balances, it cannot at this time be considered the less so, merely on the ground of the Legislature having heretofore fallen into an error on the subject. The fact is, that Congress did, in 1799, pass a law for remitting the balances, on condition, that each debtor State would pay into the Treasury of the United States by a given period the amount of the sums which had been assumed by the United States, of their respective State debts prior to the settlement. But, sir, at the time of passing that law, and ever since, I have considered it in the same point of light as I do the resolution before you, and therefore cannot admit that as a circumstance in favor of the resolution. That provision has now expired, without being embraced by any of the debtor States, except in that which has been done by the State of New York, in fortifying her ports and harbors. If the State of Delaware had thought proper to have complied with this liberal provision, she might have been discharged from a debt of \$600,000 for \$60,000, but it seems that she prefers a total extinction to a partial payment. If the balances should be extinguished on the principle that the settlement was unjust, which is the only ground taken in favor of their extinguishment, I am apprehensive that this is only to be a stepping stone to a more favorite object. I mean the extinguishment of the balances due to the creditor States on the settlement: for, although these balances have been funded by the United States, it is well known that the evidences of the debt in the possession of

the creditor States are not transferable, so that Congress will have nothing to do to effect this part of the business, but to order payment to the creditor States on those balances to be stopped. And if this House shall consider the settlement so entirely unjust as has been stated by some gentlemen, and in consequence thereof give their vote for the extinguishment of the balances due from the debtor States, I cannot conceive why the same principle might not with the same propriety be extended to stop payment to the creditor States; nor should I be surprised, if the one should be carried, at seeing a resolution laid upon your table, before the close of the present session, for effecting the other. And will not the same parity of reasoning which has been adduced on this occasion lead to the extinguishment of all the debts of the Nation? If \$3,500,000 due to the United States is to be wiped off on a mere statement on this floor, that the settlement was unjust, without the least particle of evidence to prove the fact, will a pretext ever be wanting for passing sentence against any class of your public debt? Sir, I have always been an admirer of the system of government established in the United States. I have thought it the best calculated of any government on earth, to perpetuate national faith, and secure individual rights. I have entertained exalted ideas of the wisdom and economy of the present administration, and I have consoled myself on the pleasing prospects of the future prosperity and happiness of our nation. But, sir, I view the measure before you as calculated to veil those pleasing prospects, and excite fearful apprehensions for the honor and fate of our country.

The resolution was further supported by Mr. J. CLAY, and opposed by Mr. FINDLEY, and Mr. BEDINGER.

Mr. Root begged the indulgence of the House, for a few moments, while he briefly stated some of the reasons which guided his judgment in favor of the resolution on the table. Coming, as he did, from a State against which a large balance had been reported by the Commissioners, it would probably be expected that he should lend his feeble efforts in aid of its extinguishment. But, while making these efforts, he should not call in question the conduct of the Commissioners in striking these balances, nor inquire whether they were actuated by pure or impure motives. As the balances have been for a long time reported, and as the proceedings of the Commissioners, as well as the documents and vouchers on which they acted, are secluded from the public eye, he should suffer them all to rest together undisturbed, and confine himself to the justice and expediency of the measure.

If, said Mr. R. there is no probability that the debtor States, so called, will ever pay the balances reported against them, wisdom and sound policy require the passage of this resolution; else they may remain a source of future jealousy and hatred between the several States, and a subject of management highly prejudicial to the Union. Or are they, he inquired, to remain as a rod over the debtor States to whip them into compliance with some favorite measure? If this was the object, he

thought it prudent to extinguish them at once. The national Treasury, he said, can never be enriched from this source, unless a voluntary payment shall be made by the debtor States, or the United States shall, by coercion, compel a payment. And although, according to the report of the Commissioners, there are several States which are nominally debtor, yet there are but three, viz: New York, Delaware, and North Carolina, which are, by that report, really debtor. And a voluntary payment on the part of those States cannot reasonably be expected: For you are told, Mr. Chairman, that Delaware cannot pay; and you are also told, by two honorable gentlemen from North Carolina (Mr. BLACKLEDGE and Mr. HOLLAND) that that State will not pay—and as one of the Representatives from the State of New York. I think I may with confidence assert that she will make no farther payment. She yet remembers, sir, that at the commencement of the Revolution nearly one half of her citizens were inimical to that cause which you venerate. She yet remembers, that early in that revolution her only avenue to the ocean was blocked up, and by that and other causes, growing out of the existing state of things, the price of her produce, and of her supplies furnished to the army, was deeply depressed. That State was the theatre of war almost during the whole conflict. Her western frontiers were burnt and pillaged by a savage foe, and her southern borders overrun by worse than savages. From her northern frontiers a formidable enemy penetrated into the very bowels of the State. Surrounded by these distressing scenes she not only raised her regiments and paid her quotas required by Congress, but also set apart, as bounty lands for her soldiers, a large tract of the most fertile part of the State. After having done and suffered so much, she could not but view with astonishment that enormous sum of more than two millions of dollars which was reported against her. Further, Mr. Chairman, the State of New York cannot believe that the act of Congress of the 15th of August, 1790, pointed out a fair and equitable mode of settlement. When men and money were called for, to carry on that war in which these expenses were incurred, that State had not more than half the population which she possessed at the time this act was passed. The quota of expenses, therefore, which were charged to her according to this ratio, were nearly double to what it would have been, had a settlement been made, by the same ratio, at the close of the war. Had her quota been fixed according to her population at that period, it is presumed that she would have been reported a creditor instead of a debtor State. That State must therefore think that this enormous balance is an unjust and an unreasonable demand. And if she thinks it unjust, it is enough; for whether the settlement is just or unjust, if a State thinks it unjust the result is the same; she will not voluntarily pay.

But, said Mr. R., perhaps we shall be told that the State of New York has already made appropriations for complying with the terms offered by the act of Congress of the 15th of February, 1799,

and that she has actually expended in the defence of the port of New York, and for which she is credited on the books of the Treasury, to the amount of \$220,000, and that thereby she has acknowledged the justice of the demand, and will pay the residue. But, let gentlemen remember that, at that time, a momentary frenzy had seized upon the people of the United States, to wage war upon the Republic of France. And was it strange, he inquired, that the Legislature of that State caught the contagion? When the General Government had either refused or neglected to fortify her ports, was it strange that she should attempt to defend herself against the danger of an invasion, then supposed to be imminent? Since that frenzy has subsided, it is presumed that New York will not make a further waste of money, in compliance with the terms of the act of 1799. And, besides, sir, should the debtor States, for a moment, suppose the settlement to have been equitably made, and that the balances are justly due, we should probably find each State withholding a payment till other debtor States had paid the balance reported against them. Thus, by each State's waiting for others to go forward, you would find that no payment would be made. If you can have no reasonable expectation that these balances will ever be voluntarily paid, why retain them on your books? Do you intend, by coercion, to compel a payment? In what manner, I beg to know, will you institute suits against the debtor States? Will you bring a State sovereignty to bend at the feet of your courts? I presume not, since you have amended the Constitution respecting the suability of States. Will you sequester their stock in the funds, if they should happen to hold any, and thus violate the national faith? And will you lay a direct tax upon the United States, and remit the same to the creditor States, and thus indirectly evade the Constitutional provision that direct taxes and representation shall be according to a certain ratio? Or will you, as the last resort, put the debtor States out of your protection, and send your fleet to block up their harbors? I presume you will not, especially when you reflect that the people of New York alone pay more than one-fourth of all your duties on imports and tonnage. This is too considerable an item in your revenue to be wantonly thrown away.

But, Mr. Chairman, it has been suggested that the enormous balance reported against the State of New York proceeds from the assumption of the State debts, and that she is bound in honor to pay, and will pay, the amount assumed for her. In reply to this suggestion, permit me to remark, that the sum which was assumed for her was not equal to her proportion of the aggregate amount of State debts assumed. The sum assumed for New York was \$1,183,716 69. The aggregate amount assumed for the several States was \$18,271,787 47. Hence, it will appear that, according to the ratio for settling the accounts as established by the act of 1790, the proportion of New York of that aggregate sum is \$1,715,169 78; which is \$532,453 09 more than the sum assumed for that



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State. Less sums were also assumed for Delaware and North Carolina than their respective proportions of that aggregate.

Another objection is made to the resolution on your table, that its passage will affect the credit of the creditor States; and one gentleman from New Jersey (Mr. SOUTHARD) has gone so far as to say that the same power which can extinguish these balances, can wipe off the whole funded debt; and my friend from Massachusetts (Mr. VARNUM) expressed a belief that the passage of this resolution is a violation of public faith. But I must confess, sir, my total inability to perceive the force of these observations. If Congress possess the physical power by one Legislative stroke to wipe off the whole funded debt, yet, if that power cannot rightfully be exercised, I trust it will not be exercised at all by this House. And I cannot see that, because you remit to your debtor that debt which he claims to be unjust, you thereby destroy the credit of your creditors. Or, does it necessarily follow that if an individual remits the supposed debt, that he, by the same act, destroys the bond of his creditors? Those States in whose favor balances were reported have funded those balances, and the national faith is pledged for the payment. And I trust that this nation will continue to preserve its faith inviolate.

Permit me, sir, to add, if the extinguishment of these balances is a violation of public faith and a destruction of the credits of those States who have funded the balances reported in their favor, that that faith is already violated and those credits are already destroyed. For, by the operation of the act of 1798, had the debtor States complied with its proffered terms, the balance against New York of more than two millions, with interest, would have been paid with less than eight hundred thousand dollars, and the six hundred and odd thousand dollars against Delaware would have been paid with about fifty thousand. And the same principles which gave you a right to remit a part, gave you a right to remit the whole. If the extinguishment of the whole will give a deadly blow to public faith, I should think that the remission of so large a part had, at least, inflicted a mortal wound.

From a full view of this subject, Mr. Chairman, I am convinced that if you retain these balances as a rod over the debtor States, you will only excite jealousy and animosity among the members of this Union, without deriving any benefit to the nation. Permit me, therefore, to express a hope that a majority of this Committee will be in favor of sponging them out of the books of the Treasury.

Mr. LEIB said that he never rose to give an opinion on that floor but with reluctance, and he should not then have risen but for the demand of the yeas and nays on the question. As he had heretofore voted against a similar proposition to that on the table, he felt it a duty he owed himself, as the vote was to be recorded, to assign his reasons for rejecting the report of the Committee of the whole House and voting in favor of the resolution.

This is not a new question. It had been re-

peatedly before Congress and before the public since he had had the honor of a seat on that floor. He should not inquire whether the accounts upon which the balances were predicated had been fairly liquidated or not; whether the sums were justly due; nor should he examine which of the States had rendered most services to the nation. These considerations with him bore not upon the case. The question had simplified itself to his mind and lay in a narrow compass. It had resolved itself into this: Can or will these balances ever be paid? If they cannot, nor will not be paid, there ought to be an end to the inquiry, and an end to the demand. It had been said, during the discussion, by a gentlemen from New York, that when this subject was formerly under consideration, New York sold out the stock which she held in the funds of the United States, lest it might be sequestered for the payment of her balance. Can anything evince a stronger hostility to the payment of this claim than this fact? And yet, with this open declaration against the payment of the balance due by her, we are to persist in continuing the claim! As New York has manifested her determination not to pay, what mode of coercion has been suggested? None. No one has pretended to say that these balances ever can, or ever will be collected. If New York and North Carolina will not pay, can Delaware discharge the claim against her? With her what process is to be pursued? Is she to be sent to auction and sold to the highest bidder? And if gentlemen are willing to put her under the hammer of the auctioneer, who is to be the purchaser and how is the sale to be enforced? The justice of these balances has been contested, nay, it has been flatly denied; it is not to be expected, therefore, that the debtor States would willingly discharge them, and as no feasible mode of enforcing payment has been or can be suggested, policy and economy call for their extinction.

It would be well for gentlemen, who are for keeping alive this demand, to calculate its cost to the nation, and then, perhaps, they would feel less reluctance to the surrender. Large sums are spent in the discussion, and the time and the purse of the people very unprofitably employed. In his apprehension, therefore, it would be a saving to the United States to pass the resolution. It is idle to keep up a demand which never can nor never will be satisfied; he hoped, therefore, the House would agree with him in rejecting the report of the Committee of the Whole and adopting the resolution.

Mr. HOLLAND.—It is to be expected that gentlemen representing various parts of the Union, and particularly those who were eye-witnesses to the hardships experienced under the Revolutionary war, will be led to think that the distresses they saw, and the exertions performed immediately within their own view, were not equalled in any other part of the continent. That this is the case, we have sufficient evidence by the declarations of many honorable gentlemen on the present question. A gentleman from Massachusetts (Mr. THATCHER) has said, that the States of New

England had suffered and done more for the obtaining of independence, than what had been done or suffered by the Southern States. That we are greatly indebted to the prowess of our Eastern brethren, that they were unanimous in sentiment, prompt, and fought many a well-fought battle in the Revolutionary war, and acquitted themselves with honor, I am not disposed to deny, and that we are greatly indebted to them for the bold, intrepid manner of their conduct against the common enemy; and that it was by the exertion of those patriots with that of those throughout the Union that procured our independence.

The patriots in New England, being of one sentiment, had only to contend with the common enemy; a contention which, when compared with that of their Southern brethren, will be found to be unequal in exertion, honor, or consequences. The Eastern was a foreign, the Southern a foreign and civil war. In the East they could, without suspicion of being betrayed, collect together, and level all their forces against one object, and could retreat with safety into the bosom of their country. But there were no such advantages with us—we had no retreat. We had the common enemy on the coast, the savages on the frontier, and enemies within our own bosom. We were nearly equally divided, and it has never been decided which had the majority, and the controversy was not to be determined by argument but by battle, and battles were frequent, not of a people against a foreign foe, but a battle of neighbor against neighbor; and among the slain it was common to see acquaintances, neighbors, brothers, and sometimes a father who had fallen by the hostile arms and prowess of his son. It was a war the most distressing and intolerable of all wars, too much so to be further related. But I hope, after the imperfect sketch that I have given, the honorable gentlemen from Massachusetts will admit that their friends in the South have at least experienced their equal share of distress in the Revolutionary war. That the patriots of the South (and it was a war of patriots and not of States—States were only described by geographical boundaries, and boundaries that were yet to be contested for) have suffered in the contest equal to any given number of patriots in the States of New England; and let it be recollected that the object of the contest has, by the united exertions of those patriots, been obtained, and let us not tarnish it by invidious comparisons, or sully it by keeping in remembrance and repeated discussion this bone of contention; this old, dry bone that, as before stated by my friend from Delaware, has no nutriment upon it.

But perhaps the honorable gentlemen from Massachusetts draw their conclusions of the services performed by the Eastern States from the report of the Commissioners of Settlement. If this is the source from which those conclusions are drawn, I am convinced, upon examination, that it will also fail. Agreeably to this report, Massachusetts, New Hampshire, South Carolina, and Georgia, are creditor States. So that it appears from this document that the little convulsed State of South Carolina, not having a third of the pop-

ulation, has done within a few thousand dollars as much as the powerful State of Massachusetts, and that the two weakest States to the southward, and on the southern frontier, harassed, divided, and under British domination a great part of the time, have from this evidence done more, vastly more indeed, in proportion to their whole numbers, than was done by the two most powerful, unanimous, and wealthy States of New England. But this report is not to be relied upon, and when I say this, it is not my intention to impeach the integrity of the Commissioners who made it, nor to cast any reflection upon any one of the creditor States, touching the manner of keeping or exhibiting their accounts. But I mean to say, that the manner in which North Carolina kept her accounts and performed her services, was such that it was impossible that justice could have been done her in the settlement.

In the early stages of the Revolution, it never occurred to the Legislature of that State that they would be indemnified for any services but such as were done by the immediate order of the General Government. Of course, all the services performed for her immediate defence, such as expeditions against the savages—and there were several campaigns carried into the Indian country, and a continual line kept up on the frontier for protection against savage depredations during the whole war—together with a number of volunteer services to the aid of South Carolina and Georgia, against their internal and external enemies, with the perpetual services necessarily performed for the subjection of our own disaffected citizens—these services were sometimes volunteer, sometimes by draught, and sometimes it was made the duty of a given number to hire, clothe, and equip a soldier. This was done under a general sense of duty, without any expectation of private or public remuneration, other than the hope of an eventual freedom. What ground of hope existed? The paper money of every description had sunk to nothing, and the State had no fund to authorize even a hope for redemption. All was gone, and nothing remained but the most disinterested and vigorous exertion to secure the main object. And towards the close of the war the only place of safety was in the camp—a constant, unregistered service. Under these circumstances, can it be possible that we had justice in the settlement? Having no documents to be produced to the board, could we obtain a credit? The thing was impossible, but the services, nevertheless, were performed, for which, if we could have obtained a credit, would have placed us in a different position. There is one other case noticed by my colleague (Mr. BLACKLEDGE) of services actually performed in the Continental department that we had no credit for, owing to a fraud having been committed by the board for settling the army accounts. The Legislature thought proper to set aside and nullify the whole of these proceedings, and previous to their being again liquidated and settled, these accounts were barred by the act of Congress. The extent thus barred I am not advised of, but they were considerable.

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I will now submit this case to the gentleman from Pennsylvania, (Mr. GREGG,) who differed widely from his venerable colleague, whether, under all the above circumstances, and many more that might be cited, North Carolina had justice done her in the settlement; or whether it was possible for her to bring forward to the board the vouchers and evidences of the services she performed in the Revolutionary war. It appears to me, sir, upon this view of the case, that every impartial, honest, and candid mind, will be ready to conclude that the thing was impossible. And also, let honest candor examine the statement made by my friend from Delaware, (Mr. RODNEY,) and I think that the conclusion will most inevitably be, that the State of Delaware has not a fair settlement, and that it was impossible that she can be in arrears near \$1,000,000.

These are the impressions that an impartial examination of this case has produced on my mind, and I am led to believe that many gentlemen representing the creditor States, and even bystanders, are obliged to coincide in the same general sentiment, to wit, that justice had not been done, and that justice could not be done in the settlement of the State balances; and as the gentlemen from the creditor States have at all times reproached a revision of settlement, and as the debtor States, from a conviction of the injustice of the demand, will not voluntarily pay it, and as there has been no means pointed out to compel the payment, why will you keep it up? But gentlemen say that they are not asking payment at this time. Why, if it is just, not ask it now? Why has the demand been so long delayed? A just demand gains nothing by delay. Why disguise this business? Would it not comport more with the dignity of this House and the honor of the creditor States to come out at once, and say in plain, unequivocal language what they intend to do? Is it kept over us as a rod to tantalize or to keep us in the back ground? Gentlemen will not avow this. Then for what other purpose? To this no explanation can be had. All is left to conjecture. And may we not suspect that there is a lying in wait to obtain power to demand, to enforce this measure? I hope this is not the case; but the holding it up attaches suspicion, that, if groundless, ought to be done away by a removal of the cause of it. I am further of an opinion that it was the intention of the old Congress, and of the Congress under the present Government, who passed the act of 1790, never to call upon those States who should be reported against for the balances, and all that was contemplated was to admit the creditor States to fund the excess. This has been done—and I am strongly impressed with a belief that nothing more was intended. If anything more was intended, it is reasonable to suppose that it would have been expressed either on the resolves of the old Congress, or in the act authorizing the Commissioners to make the settlement—a mode would have been pointed out as to the manner, time, or to whom, the payments were to be made. But not a syllable is expressed on that subject. And as to the creditor States, it

is to be remarked that they are not entitled to all the privileges attached to common creditors; they are limited in the act that admits them to fund; they are not admitted to transfer their balances so funded, from which it may be inferred that it was a thing of compromise—that it was so understood, that creditors should not transfer and that the debtors were not to be called upon; that they were considered to be nominal, but not real debtors, and this for the purpose of raising and augmenting the funded stock. For, by adverting to the proceedings of those times, assuming and funding was the system—it was the common order of the day. But if it had been understood that under the legal operation of the act of 1790, that the States reported as debtor States were to be liable, the act would not have passed. A measure so dangerous would not have obtained. And from the conduct and expressions of one of the Commissioners at a subsequent session of Congress this opinion was also entertained by the Commissioners themselves; for this Commissioner, although he insisted that it was a just settlement, yet he advocated the extinguishment of these balances. Under all these circumstances I most sincerely hope that gentlemen will feel themselves at liberty to expunge from your record this demand by voting for the resolution on your table.

The Committee rose, and had leave to sit again.

THURSDAY, January 19.

The House, in pursuance of a resolution of the eleventh instant, proceeded to the hearing of William Cowan, agent for the Virginia Yazoo Company, at the bar of the House; and the said agent being heard, in part, on the subject-matter of the claims of said Company, retired from the bar.

*Ordered*, That the further hearing of the said agent be postponed until to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the motion of the twenty-eighth of October last, for the appointment of a committee "to inquire into the expediency of extinguishing the claims of the United States for certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, with power to report by bill, or otherwise," as amended by the Committee of the Whole, and to which the said Committee yesterday reported their disagreement; and the said motion, as amended, being twice read in the words, following, to wit:

*Resolved*, That it is expedient to extinguish the claims of the United States for certain balances reported to be due from the several States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States.

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Mr. WILLIAMS, of North Carolina, said: This being a question of importance to the State I have the honor to represent, I will offer some reasons to the House in favor of the present resolution. I shall first contend that the act passed in the year 1790, was in violation of the original compact which was entered into by all the States, establishing the principles by which each State was to supply her part for the support of the Revolutionary War; and that, by changing that mode, it operated against the State of North Carolina. Secondly, that by the settlement which was made by the Commissioners, injustice was done to that State.

In making these remarks, I do not wish to be understood by the House that they ever ought to go into an examination of that settlement; but if, from the nature of things, any one State can show how she was injured, that will have considerable weight, and be a good reason to abolish those debts which are said to be due from the several States. In the eighth article of the Confederation, all charges of war, and all other expenses that shall be incurred for the common defence and general welfare, and allowed by the United States in Congress assembled, shall be defrayed out of the common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed for any person, as such land, and the buildings and improvements thereon, shall be estimated according to such mode as Congress shall, from time to time, direct and appoint. In the twelfth article it is expressly declared that the articles of this Confederation shall be inviolably observed by each State: nor shall any alteration take place, unless such alteration be agreed to in Congress, and afterwards confirmed by the Legislatures of every State.

But a gentleman from Pennsylvania has stated that Congress unanimously agreed to change the eighth article of the Confederation; therefore, the act passed in 1790, saying that each State should pay in proportion to the number of inhabitants, was done by consent, and that consent would do away error; but if the gentleman will examine the case strictly, he will find he is wrong, for two States never did consent to alter the mode prescribed by the Confederation, and it is a principle which cannot be denied, that wherever parties enter into a contract, they must all consent before it can be altered; and I take the question now before us to be similar; for each in her sovereign capacity entered into that compact, and Congress had no more right to pass a law in violation of it, than we now have to pass a law directly in violation of the Constitution which we have sworn to support.

I will now endeavor to show that by changing the mode by which each State was to furnish her proportional part to support the war, it operated against the State of North Carolina. I believe after the close of the war it was nearly ten years before the number of the inhabitants was taken within the United States; during that period there was considerable emigration to that State, it being

extensive in territory, and land very cheap. But let us consider what is the comparative difference between the price of land in the Northern States and in North Carolina. I believe, sir, at the time this settlement was made it was at least five to one, that is, one acre would sell for as much as five, therefore, in the same proportion as our population increased, and the inequality of the value of land, so much was the relative proportion of the debt changed, and thrown on the citizens of that State; and whenever a capitation tax is laid it always operates hard on that part of the community which are upon an equality and not very wealthy.

I will now show in what manner injustice was done to that State in the settlement of the accounts. In the year 1781 the Legislature passed a law giving full power to the board of creditors to settle and liquidate the claims of individuals for supplies furnished during the war, and fix the price of articles. In 1783 a law was passed fixing the scale of depreciation, and under those existing laws the Commissioners must have settled the accounts of that State, or it would be impossible for her to have been a debtor State. But it may be said that if the State passed laws which operated against her, it was not the fault of the General Government. But at that time we had not adopted the Federal Constitution, therefore each State had a right to pass such laws as would relieve her from a heavy debt which she had incurred in our struggle for liberty. Also, the very situation of our country rendered it impossible for an accurate account to be kept of the supplies furnished by the different States, when an enemy was ravaging our country; and if one State should have the good fortune to keep her accounts more accurate, she ought not now to wish to exact the sums stated to be due from her sister States. I believe there were few States in the Union which suffered more than the State of North Carolina, for she not only was ravaged by a foreign enemy, but a continual scene of distress was kept up by an internal enemy. A number of her citizens, after having furnished all they could spare to support our army, were, perhaps, the next day stripped of all their property, and nothing left to support their helpless families.

It appears that Congress repeatedly recommended to the several States, as well for hastening the extinguishment of the debts as also for the establishing of the harmony of the United States, to make liberal cessions of their territorial claims. The Legislature of North Carolina, taking the matter into consideration, not only made a liberal cession of her claims, but ceded all that extensive country which forms the State of Tennessee. This I take to be a strong reason why she ought to be released from her debt. The gentlemen who have spoken against the resolution, I take it, have not stated any solid reasons why the debts should not be abolished. They have contended that the settlement made by the Commissioners was a just one, and that it would be impossible to rectify the matter; and that if we release those debts, the creditor States may be called on to re

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fund the money they have received. I think neither of those positions are correct; for I believe the settlement was made in the dark, and in darkness it will remain. The total amount of the advances made by the several States, as fixed by the final settlement, is not known. Neither has the proportion of the debts been correctly ascertained. This matter has been kept a secret; and if the business had been conducted with such propriety, and settled fairly, why is it concealed from us? I am warranted to make use of these expressions from the proceedings of Congress.

After the adoption of the Federal Constitution, Congress was anxious to bring the matter to a close, and labored some time to effect it, but at last they assumed a debt of upwards of twenty millions of dollars, whereas it was only necessary to have assumed about eleven millions of dollars, and the same result which now exists might have been effected had they waited till the accounts had been settled; and thus they created a debt of upwards of ten millions of dollars. Therefore, Congress have, in the whole of their proceedings, shown clearly that they never intended to call on the debtor States, and that it was only necessary to make provision for those States which had a balance struck in their favor. Ought not, then, those creditor States be content, when they have had their debt assumed by the Government, and they are annually drawing interest for the same? And with respect to the objections which gentlemen have made, that by discharging the debtor States, it will be the means of destroying their debts, they are merely ideal. I believe there is not a person on this floor who is in favor of the resolution that has any such wish; neither do I think it ever will be attempted.

Some gentlemen have asked, if we release the debtor States, what is the *quid pro quo*? Have not the creditor States got their debts funded, and the faith of our Government pledged for the payment? But, independent of that, I think, sir, the liberty and freedom we now enjoy would be a sufficient *quid pro quo*. But there is one reason more, which I think alone would be sufficient to extinguish these debts. The cause which gave rise to them—that noble cause of liberty which gave to us our independence. It seems as if the God of Nature had destined this happy land of America the only asylum for liberty; and I would ask those gentlemen if it was not by the joint effort of all our sister States that we liberated ourselves from the hand of tyranny? Was it not owing to the supplies of the several States, be they great or small, that we are now breathing the air of liberty? Was it not by that noble impulse which filled the breasts of the American people with a thirst for freedom that gave birth to our Government? For in that momentous hour, when the fate of our nation was suspended on the wings of fortune, if one of our States had withdrawn her assistance from the Union, I believe we should not now be within these walls as legislators, but under the scourge of a Monarch. And in order to unite us more permanently under our present form of Government, I think it would not

only be policy but justice to abolish these debts, which are said to be due, as it is impossible to know whether they were settled on principles of equity and justice between the several States; and it was a joint cause, and one which will always do honor to America as long as time shall last. I hope that the House will reject the report of the committee, and be of the opinion that the balances which are reported to be due from the several States ought to be extinguished.

Mr. KENNEDY.—Mr. Speaker: The State which I in part represent being one of those that are denominated debtor States, and being strongly impressed with a belief that the means by which she has become so are improper, I conceive it my indispensable duty to submit to the House my reasons for forming such opinion.

In endeavoring to perform this task, the first point that I shall attempt to establish is, that the act of Congress which fixed the ratio according to numbers, and under which the accounts were settled that produced these balances, was unconstitutional; and in order to prove this position, it may not be improper to give, for the information of those gentlemen who have not made themselves particularly acquainted with the subject, a concise statement of the proceedings of the old Congress relative to the matter now under consideration.

Permit me, sir, in the first place, to premise that when the King of Great Britain thought proper to commence a cruel and distressing war against the American colonies, for the purpose of reducing them into a state of passive obedience, it became their interest to unite for their security, and accordingly they associated and leagued together under certain terms and conditions, the whole of which are contained in what is known by the Articles of Confederation; the 8th of which declares that all charges of war and all other expenses that shall be incurred for the common defence or general welfare shall be defrayed out of a common treasury, which shall be supplied by the several States in proportion to the value of all land within each State, granted to or surveyed for any person, as such land and the buildings and improvements thereon shall be estimated, according to such mode as the United States, in Congress assembled, shall from time to time direct and appoint; and the thirteenth article thereof prohibits any alteration in any of them unless agreed to in Congress, and which shall be afterwards confirmed by the Legislature of every State. From which it may be perceived that the manner of settling, adjusting, and finally determining the proportions to be borne by the several States of the evidences of the war, was as completely fixed and established as the same by language could be done.

In the year 1782, in order to bring the accounts relative to those expenses to a final settlement, Congress appointed Commissioners for that purpose, and at the same time recommended to the several States, to authorize Congress in the final settlement of the proportions to be borne by each State of the expenses before mentioned, to adopt

such principles as, from the particular circumstances of the several States at different periods, might appear just and equitable, without being confined to the rule laid down in the eighth article of confederation. This recommended alteration did not meet with the approbation of all the States; of course it failed, as the article intended to be amended or affected thereby remained untouched and unrevoked.

In the year following, they formally agreed to revoke that article, and in the place thereof declared that the charges and expenses of the war should be apportioned among the States according to numbers, which was submitted to the Legislatures of the several States, for their ratification; but, in this, as in the first attempt, they were also unsuccessful, some of the States deeming it contrary to their interest to adopt the same.

In the year 1787, the subject was again resumed by Congress; by passing an ordinance establishing a new board of Commissioners, with powers to make a final adjustment of all the accounts, agreeable to such quota as Congress should thereafter determine. If, sir, Congress meant by this ordinance to fix the rate of expense, agreeably to the eighth article, and to empower the Commissioners to make a final adjustment of all the accounts subsisting between the United States and the several members thereof, that principle was, in my opinion, correct; but if they intended thereby to declare their power of establishing the ratio upon any other principle, then I must be permitted to say that the ordinance is in direct violation of the terms of the Confederation, and therefore void; for I hold it to be a sound principle, that the old Congress had no powers but what were expressly given by the then federal compact, and whenever they exceeded the limits by that instrument prescribed to them, their acts are entirely invalid. Having shown, as I humbly conceive to the satisfaction of every reasonable gentleman, that the former Congress had no power to settle those accounts upon any principles, other than those under which they were contracted, I will omit further remarks on that point, and proceed to show that the Congress under the Federal Constitution are equally as destitute of such powers.

Sir, after the most deliberate examination I have not been able to discover anything in that instrument that either expressly or implicitly gives to them that power; but, on the contrary, find the sixth article positively declaring that all debts contracted, and all engagements entered into before the adoption of that Constitution, should be as valid against the United States under the Constitution as under the Confederation.

Will any gentleman pretend to say, that, when the expenses of the war are apportioned among the States, according to numbers, that the balances would be precisely the same that they would be when apportioned according to the value of the surveyed or granted land and improvements? I trust that no one will hazard that opinion.

It follows, then, of course, that if the balances due any of the States, upon the settlement of those accounts, according to the principles fixed by the act,

are less than they would have been had the settlement been made according to the principles contained in the Confederation, those balances being due from the United States, are, so far as they are reduced, not as valid as they were under the Confederation; therefore, the act that fixes the standard by which they are reduced is contrary to the Constitution, and of course void.

By the seventh section of the first article of the same instrument, Congress has the power to lay and collect taxes, duties, imposts, and excises; not to add to or diminish, but to pay, the debts of the United States.

Having, as I conceive, in a clear point of view, proved the act under consideration unconstitutional, I will dismiss that point, and proceed to show wherein the alteration of the principles upon which the accounts ought to be settled affected and materially injured the State of North Carolina; in the doing of which, those circumstances necessarily will be mentioned which will serve to prove what I have already asserted, that the balances would have been different had the ratio been made upon the proper principles.

Mr. Speaker, that State being inferior in square miles to but few in the Union, gentlemen might suppose, without reflection, that her quota of the general expense, when calculated in the way I contend for, would be proportionately large. But, sir, I must be permitted to remark, that she had within her chartered limits a large quantity of surplus or unappropriated land, which was not by the Articles of Confederation to be taken into the valuation—that expressly declaring the lands granted or surveyed, with their improvements, only to be estimated.

There is, sir, another fact equally well founded: the lands in that State are of less value than the lands in any State within the Union. This, I conceive, has not arisen because they are of inferior quality, but principally on account of her difficult navigation. And perhaps I might not be far wrong in saying that one of the large Northern cities is worth half as much as all the lands in that State. From which, I may fairly conclude that her relative proportion in numbers is much greater than the relative proportion in the value of the surveyed or granted land and improvements. And in order to establish this fact, I will briefly state to the House the proportion in which the former Congress laid their requisitions on the several States in the year 1779. Fifteen millions of dollars were required, of which North Carolina had to pay one million and ninety thousand. In the same year, out of eighty battalions of troops, she had only to raise six; at another time two millions of dollars were required, of which she had only to contribute one hundred and forty-eight thousand. In none of these did her quota exceed one-twelfth part.

But, by the act of 1790, she had to pay one-tenth of the expense, as, by the first census, that was about her relative proportion in numbers. And as the aggregate amount of expense is at least thirty millions of dollars, (and less than that sum cannot be presumed,) her quota, according to num-

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bers, was three millions of dollars. But, was it fixed according to terms on which the debts were contracted, allowing her proportion to be one-twelfth, then it would only amount to two millions five hundred thousand dollars—making a difference of five hundred thousand, which I consider as a dead loss to her by the change. I add to this a loss of upwards of one hundred thousand dollars in claims for services and supplies, which were prohibited by the act from being received by the Commissioners in the final settlement, as the certificates for the same were not issued previous to the 24th day of September, 1788; which two sums would make her a creditor State to the amount, at least, of one hundred thousand dollars, had the accounts been settled as they ought.

But, supposing for a moment that Congress had the power of varying the mode for settling those debts, the termination of the Revolutionary war was the most proper time for taking the census for that purpose: the debts then ceased to accrue. The act, sir, is predicated upon the supposition that the same or a proportionate state of things existed then that did when the debts were contracted, when the fact was really otherwise; for the unappropriated land already mentioned induced vast numbers to emigrate from States that did not possess those advantages, and from other parts of the world into the State of North Carolina; the consequence was, her increase of population was greater than those States that were not similarly situated, which may be proved by referring to her increase of representation beyond that of Connecticut, Rhode-Island, New Jersey, and others. Of course she had more to pay than she would have had if the census had been taken previous to this emigration. And what is this extra expense for? nothing that I can discover but because she did not compel those emigrants to grant supplies and perform services for the defence of the country, when they were not under her control, not being then inhabitants of that State, and, with respect to many, not citizens of any of the States. The injury sustained on this account cannot be precisely ascertained, but no doubt it was considerable.

Her injury however did not end here, for by an act of her Legislature the prices of a great part of the articles furnished the United States by her citizens were established in the then depreciated currency, and for which certificates accordingly issued, which when brought into the settlement were reduced, as I am informed, by the Commissioners, according to a scale of depreciation, to less than one-half of their real value; the amount of which loss must be enormous indeed.

Under all these circumstances, can any gentleman suppose that she will voluntarily pay any part of the balance reported against her? If they do flatter themselves with such expectations I humbly conceive, ultimately, they will discover their error; and will now conclude my remarks with a hope that the House will not agree to the report of the Committee of the Whole.

Messrs. SKINNER, EUSTIS, GREGG, and FINDLEY supported, and Messrs. RODNEY and LEIB opposed the report of the Committee of the Whole.

The question was taken that the House do concur with the Committee of the Whole House in their disagreement to the said resolution, and passed in the negative—yeas 65, nays, 67, as follows:

YEAS—Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Phaniel Bishop, Adam Boyd, Joseph Bryan, William Butler, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, John Clopton, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dennis, Thomas Dwight, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Roger Griswold, Samuel Hammond, Wade Hampton, John A. Hanna, Seth Hastings, Joseph Heister, William Helms, William Hoge, David Hough, Samuel Hunt, Nehemiah Knight, Joseph Lewis, jr., John B. C. Lucas, Matthew Lyon, David Meriwether, Nahum Mitchell, Thomas Noble, James Mott, Anthony New, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Abram Trigg, John Trigg, Joseph B. Varnum, Peleg Wadsworth, and Lemuel Williams.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, John Archer, William Blackledge, John Boyle, Robert Brown, George W. Campbell, John Campbell, Thomas Claiborne, Joseph Clay, Frederick Conrad, John Dawson, William Dickson, John W. Eppes, James Gillespie, Edwin Gray, Gaylord Griswold, Josiah Hasbrouck, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Michael Leib, Henry W. Livingston, Andrew McCord, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, Thomas Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Joshua Sands, John Smilie, John Smith of New York, John Smith of Virginia, Richard Stanford, John Stewart, David Thomas, Philip R. Thompson, George Tibbits, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Daniel C. Verplanck, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

The question then recurring that the House do agree to the said motion, as originally proposed, in the words following, to wit:

*Resolved*, That a committee be appointed to inquire into the expediency of extinguishing the claims of the United States, for certain balances reported to be due from several of the States to the United States, by the Commissioners appointed to settle the accounts of the individual States with the United States, and that the said committee have power to report by bill, or otherwise—

Mr. VARNUM moved to amend it, by adding:

"And that provision ought to be made to pay to the creditor States, in the stock of the United States, their respective proportions of the whole amount of said balance, in the ratio prescribed by the Constitution of the United States for the apportionment of direct taxes among the several States."



On this amendment a debate ensued, in which it was supported by Messrs. VARNUM and R. GRISWOLD, and opposed by Messrs J. CLAY, BLACKLEDGE, FINDLEY, DENNIS and ALSTON.

Mr. NICHOLSON moved to amend the amendment by inserting after "proportions," the words "if entitled to any." Lost yeas 53, nays 64.

FRIDAY, January 20.

*Ordered*, That so much of the report of the Committee of Revisal and Unfinished Business, of the twenty-sixth of October last, as relates to a bill to lay out and open a new public road in the county of Washington, in the District of Columbia, presented at the last session, be referred to the committee appointed, on the twenty-sixth ultimo, on a representation of the City Council of Washington, in the said District of Columbia.

*Ordered*, That the petition of sundry citizens of the United States, resident in the Territory of Columbia, presented the 29th of December, 1801, "praying that a bridge may be erected from the western and southern extremity of the Maryland avenue, in the city of Washington, to the nearest and most convenient point of Alexander's island, in the river Potomac," be referred to the committee appointed, on the tenth instant, on a petition to the same effect, of sundry other citizens of the United States, resident in the said Territory of Columbia; to examine the matter thereof, and report their opinion thereupon to the House.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, to whom was referred, on the eighteenth instant, the amendment proposed by the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," reported that the Committee had had the said amendment under consideration, and directed him to report to the House their disagreement to the same.

The House then proceeded to reconsider the said amendment of the Senate, at the Clerk's table: Whereupon, the amendment, together with the bill, were recommitted to the Committee of Ways and Means.

Mr. JOHN RANDOLPH, from the committee appointed, presented, according to order, a bill to ascertain and provide for the salaries of the Judges of the Orphans' Courts in the District of Columbia; which was read twice and committed to a Committee of the whole House on Monday next.

*Ordered*, That the committee to whom was referred, on the sixth instant, the petition of sundry aliens resident in the city of Baltimore, and State of Maryland, have leave to report thereon by bill, or bills, or otherwise.

Mr. MCCREERY, from the committee last mentioned, presented, according to order, a bill in addition to an act, entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on the subject;" which was received, read twice, and committed to a Committee of the whole House on Monday next.

The House, in pursuance of a resolution of the

eleventh instant, proceeded to a farther hearing of William Cowan, Agent of the Virginia Yazoo Company, at the bar of the House; and, thereupon, the said agent being fully heard, retired from the bar.

A petition and memorial of the citizens of the town of Alexandria, in the District of Columbia, signed in behalf of the said citizens, by Jacob Hoffman, their Mayor, was presented to the House and read, submitting certain propositions to the consideration of Congress, by way of amendments to their existing charter of incorporation; and praying that the same may be adopted, under such modifications and regulations as shall be deemed best calculated to promote the convenience and prosperity of the petitioners.—Referred to Mr. JOHN RANDOLPH, Mr. JOHN CAMPBELL, Mr. FINDLEY, Mr. GOODWIN, and Mr. DENNIS, to examine and report their opinion thereupon to the House.

MONDAY, January 23.

Another member, to wit: WALTER BOWIE, from Maryland, appeared, produced his credentials, was qualified, and took his seat in the House.

The SPEAKER laid before the House sundry letters of the same tenor, written in the German language, addressed to the "General Congress of North American Free States," from the Council of Directors of the city of Memel, in the province of East Prussia, and dated the 25th of May, 1803, stating "that a certain Charles Melvill, formerly a resident of the said city of Memel, had, about four years previous to the date aforesaid, removed from thence to Charleston, in South Carolina, and remains indebted to the Comptroller of the said city for two bills of exchange, amounting to twenty-four thousand seven hundred and nine florins, Prussian currency: that the said Charles Melvill, it is believed, died some time ago, possessed of considerable property; the said Directors, with great submission, request the honorable Congress of the United States to oblige them with such information as the nature of the case will admit, offering a reciprocation of services therefor.

*Ordered*, That the said letters be referred to Mr. CONRAD, Mr. SAMMONS, and Mr. JACKSON; to examine and report their opinion thereupon to the House.

A memorial of the American Convention for promoting the abolition of slavery, and improving the condition of the African race, signed at the city of Philadelphia, by order and on behalf of the said Convention, by Matthew Franklin, their President, and attested by Othniel Alsop, their Clerk, was presented to the House and read, praying that Congress will, by law, prohibit the importation of slaves into the Territory of Louisiana, lately ceded to the United States.—Referred to the committee appointed, on the twenty-seventh of October last, on so much of the Message from the President of the United States, of the twenty-first of the same month, as relates "to permanent arrangements for the government of Louisiana;" to examine and report their opinion thereupon to the House.

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Mr. NICHOLSON, from the committee to whom were referred, on the twenty-fifth of November, sundry memorials of the people of the Mississippi Territory of the United States, made a report in part thereon; which was read and referred to a Committee of the whole House to-morrow.

Mr. N., also, from the committee to whom were referred, on the twenty-second of November last, and the fourth instant, the petition of sundry residents and purchasers of land in the State of Ohio, made a report, in part, thereon; which was read, and referred to a Committee of the whole House on Monday next.

On motion, it was

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, alterations are necessary in the "Act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers;" and that the committee have leave to report thereon by bill, or otherwise.

*Ordered*, That Mr. GEORGE WASHINGTON CAMPBELL, Mr. EARLY, Mr. THOMAS LEWIS, Mr. ROGER GRISWOLD, and Mr. EARLE, be appointed a committee, pursuant to the said resolution.

The House resolved itself into a Committee of the Whole, on the bill for the better direction of the collectors of the respective ports of the United States in granting to seamen certificates of citizenship; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

*Resolved*, That the Secretary of State be requested to lay before this House the documents and papers deposited in his office by the South Carolina Yazoo Company, and the Virginia Yazoo Company, in support of their claims to public lands; and that the Clerk of this House do return the said documents and papers to the office of the Secretary of State, when the House shall have decided upon the memorials of the said companies.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, in the year 1804." Whereupon, the said amendments, together with the bill, were committed to the Committee of Ways and Means.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to divide the Indiana Territory into two separate governments," together with the report of a select committee thereon, made the thirtieth ultimo; and, after some time spent therein, the Committee rose and reported progress.

Mr. BRYAN moved the following resolution:

*Resolved*, That the Committee of Ways and Means be directed to bring in a bill fixing the permanent salaries of those officers whose salaries were increased by an act passed on the second of March, 1799, &c.

Mr. J. CLAY inquired whether such a resolution was in order, a similar one having been decided upon before?

The SPEAKER said it was in order, as the former resolution was general, and this particular.

The resolution was agreed to—ayes 52, noes 43.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill making appropriations for the support of Government, during the year one thousand eight hundred and four; which was read twice, and committed to a Committee of the whole House on Monday next.

TUESDAY, January 24.

An engrossed bill for the better direction of the collectors of the respective ports of the United States, in granting to seamen certificates of citizenship, was read the third time, and passed.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, to whom were referred, on the sixteenth instant, the amendments proposed by the Senate to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States, by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes," made a report thereon; which was read, and referred to a Committee of the whole House to-morrow.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, accompanying his report respecting the levying new and more specific duties on goods, wares, and merchandise, imported into the United States, prepared in pursuance of a resolution of this House of the twenty-first of February last; which were read, and ordered to be referred to the Committee of Ways and Means.

Mr. FINDLEY, from the committee to whom was referred on the thirtieth instant, the amendment proposed by the Senate to the bill, entitled "An act to incorporate the Directors of the Columbian Library Company," reported that the committee had, according to order, had the said amendment under consideration, and directed him to report to the House their agreement to the same.

The House then proceeded to reconsider the said amendment of the Senate, at the Clerk's table; and, on the question that the House do concur with the committee in their agreement to the same, it was resolved in the affirmative.

A Message was received from the President of the United States, communicating a letter from Governor Claiborne, in relation to the government of Louisiana, under contemplation of the Legislature.—The Message together with the letter of Governor Claiborne, were read.

*Ordered*, That the SPEAKER be requested to return to the President of the United States the letter from Governor Claiborne, aforesaid.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, to whom were yesterday referred the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four, reported that the committee had had the said amendments under consideration,

and directed him to report to the House their disagreement to the same.

The House then proceeded to reconsider the said amendments of the Senate at the Clerk's table: Whereupon, the question being taken that the House do concur with the Committee of Ways and Means in their disagreement to the same, it was resolved in the affirmative.

#### PUBLIC ROADS.

The House went into Committee of the Whole on the bill making provision for the application of the moneys appropriated for making public roads to the Ohio.

Mr. SMILIE moved the rising of the Committee, with a view to the postponement of the bill to the next session.

This motion was supported on the ground that the application of the money was premature, there being but about \$800 in the Treasury, and that the designation of the route would occasion much discussion, which would interfere with the transaction of important business before the House.

It was opposed by Messrs. JACKSON, SAMUEL L. MITCHILL, HOLLAND, and LYON, who contended that considerable time would elapse before the necessary arrangements could be made for making the roads; previously to which, upon a calculation made on a report of the Secretary of the Treasury, \$20,000 would be accumulated, and an annual sum accrue thereafter of about \$10,000; and that the present was as eligible a period as could occur for designating the points of the roads to be laid out.

The Committee rose—ayes 70; when the question being for giving leave to the Committee to sit again,

Mr. R. GRISWOLD said he should vote for it. He was of opinion that sufficient information did not exist to designate the points of the routes, and that it could not be had without authorizing the appointment of Commissioners to explore the ground; for the purpose of modifying the bill, to effect this object alone, he should vote for leave being given to the Committee to sit again.

This motion was supported by Messrs. ROGER GRISWOLD, DENNIS, LYON, and HOLLAND, and opposed by Mr. SMILIE; and carried—yeas 72, nays 54, as follows:

YEAS—John Archer, Simeon Baldwin, George M. Bedinger, Silas Betton, Phanuel Bishop, William Blackledge, John Campbell, William Chamberlin, Clifton Claggett, Thomas Claiborne, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, John Dawson, John Dennis, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, John Fowler, James Gillespie, G. Griswold, Roger Griswold, Samuel Hammond, Josiah Hasbrouck, Seth Hastings, Wm. Helms, Jas. Holland, David Holmes, D. Hough, Benjamin Huger, John G. Jackson, William Kennedy, Nehemiah Knight, Joseph Lewis, junior, Henry W. Livingston, Matthew Lyon, Andrew McCord, William McCreery, Nahum Mitchell, Samuel L. Mitchill, Nicholas R. Moore, Anthony New, Beriah Palmer, Oliver Phelps, Thomas Plater, Caesar A. Rodney, Joshua Sands, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smith of New York, John Smith of Vir-

ginia, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, John Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, Richard Winn, and Thomas Wynns.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, David Bard, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Martin Chittenden, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, William Dickson, John B. Earle, John W. Eppes, William Findley, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Thomas Griffin, Wade Hampton, Joseph Heister, William Hoge, Samuel Hunt, Michael Leib, John B. C. Lucas, David Meriwether, Thomas Moore, Jeremiah Morrow, Thomas Newton, junior, Joseph H. Nicholson, Gideon Olin, Samuel D. Purviance, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, John Smilie, James Stephenson, John Stewart, Abram Trigg, Isaac Van Horne, Joseph B. Varnum, John Whitehill, Marmaduke Williams, and Joseph Winston.

On a motion made by Mr. EPPES that the House do come to the following resolution:

*Resolved*, That a committee be appointed to prepare and bring in a bill to discontinue the office of Commissioner of Loans in the several States, and to provide for the future discharge of the duties at present assigned to that officer:

The House proceeded to consider the said motion at the Clerk's table: When, an adjournment was called for, and carried.

#### WEDNESDAY, January 25.

The SPEAKER laid before the House a letter from the Secretary of State, accompanied with sundry documents and papers, which have been deposited in his office by the South Carolina and Virginia Yazoo Companies, in support of their claims to public lands, transmitted in pursuance of a resolution of the twenty-third instant; which was read, and, together with the said documents and papers, referred to Mr. NICHOLSON, Mr. MORROW, Mr. DWIGHT, Mr. BROWN, and Mr. BRYAN.

*Ordered*, That the Committee of the whole House to whom was committed, on the seventh instant, the report of a select committee on the memorials of Alexander Moultrie, of the State of South Carolina, in behalf of himself and others, and of the Virginia Yazoo Company, by William Cowan, their agent, be discharged from the consideration thereof, and that the said report and memorials be referred to the committee last appointed.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred, on the thirteenth instant, the petition of George Mason, of the State of South Carolina, presented the 28th of January, 1803, made a report thereon; which was read, and considered: Whereupon,

*Resolved*, That provision ought to be made, by law, for the payment of such invalid pensioners as

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were placed on the list in the State of South Carolina, agreeably to the former resolves of Congress, who, by the regulations of that State, were entitled to pensions at the commencement of the present Government of the United States, and who have not since been paid the same.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution; and that the Committee of Claims do prepare and bring in the same.

*Ordered*, That the committee to whom was referred, on the twenty-sixth ultimo, the memorial of the City Council of Washington, in the District of Columbia, have leave to report thereon, by bill, or bills, or otherwise.

Mr. NICHOLSON, from the committee last mentioned, presented, according to order, a bill supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia;" which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. N., also, from the committee appointed, presented, according to order, a bill to lay out and open a new public road in the county of Washington, in the District of Columbia; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill fixing the salaries of those officers of Government whose salaries were increased by the act of the 2d of March, 1799; which was read twice, and committed to a Committee of the whole House to-morrow.

Mr. LATTIMORE, from the committee to whom were referred, on the twenty-fifth and twenty-eighth of November last, the petitions of the Legislative Council and House of Representatives of the Mississippi Territory of the United States, and of sundry residents and claimants of lands on the Alabama river, and on the east side of the river and bay of Mobile, in the said Mississippi Territory, made a report thereon; which was read, and referred to a Committee of the whole House on Monday next.

#### LOUISIANA TERRITORY.

The House went into a Committee of the Whole, on the report of the Committee of Ways and Means on the amendments of the Senate to the bill giving effect to the laws of the United States in Louisiana.

The Committee of Ways and Means recommend a disagreement to the first amendment of the Senate, providing for a port of entry at Natchez.

On concurring with this part of the report, a debate of several hours ensued, on the expediency of constituting Natchez a port of entry; when, the question being taken, the Committee of the Whole voted a disagreement to the report of the Committee of Ways and Means, only 33 members rising in favor of it. This decision is a virtual agreement to the amendment of the Senate, for constituting a port of entry at Natchez.

Having made progress in the amendments, the Committee rose, and had leave to sit again.

#### DOMESTIC MANUFACTURES, &c.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, to whom were referred on the eighth, fourteenth, nineteenth, and twenty-sixth ultimo, the petitions and memorial of sundry manufacturers of corks; of sundry manufacturers of coach and harness ware; of sundry calico printers and dyers; and of sundry manufacturers of paper within the United States; made a report thereon; which was read, as follows:

Report of the Committee of Commerce and Manufactures on various memorials and petitions from citizens of New York, New Jersey, Pennsylvania, and Maryland, praying for Legislative patronage to several domestic arts, trades, and manufactures.

During the first session of the seventh Congress petitions and memorials were presented to Congress from the manufacturers of gunpowder, of hats, of printing types, of brushes, and of stoneware. These were severally referred to the Committee of Commerce and Manufactures. And upon them a distinct report was made by the same committee on the subject of hemp, in consequence of a memorial from certain citizens, praying an increase of duty on imported hemp and sail-duck. This was presented to the House on the 18th of February, 1802.

Afterward, during the same session, the memorials and petitions of various manufacturers of starch, paper, and umbrellas, referred by order of the House, were severally reported on. And this report was offered on the 8th of March, 1802.

The session then drawing toward a close, the reports on these petitions, together with the memorials of certain calico printers, cordwainers, and shoemakers, were, few of them, acted on, but were left with other unfinished business to be taken up at the succeeding session. The resolution of the House to this effect, passed on the 16th of April, 1802.

In the course of that succeeding session, a considerable number of the former petitions were renewed, or others presented for similar purposes; and to the former collection were added memorials from printers, comb-makers, gunsmiths, and cork-cutters. The report on this volume of memorials was made on the 21st of February, 1803.

A number of these memorials, or others of the like import, have been presented again during the present session. The cutters of corks, the makers of plated trappings for carriages and horses, the stainers of plain cotton goods, and, in short, the domestic tradesmen and artists of almost every other denomination, have applied to Congress to patronize their respective employments, and to increase their profits. The modes of favoring domestic manufactures by Governmental aid may be reduced to the following heads:

First. *Encouragement by the exempting imported raw materials from imposts.* Already has it been recommended to the House to encourage some of our domestic manufactures, by increasing the facility of introducing the raw materials which enter into them. And it was thought sufficient encouragement for the manufacture of wheat into flour, and of mill stones, that rough or unwrought burrs should be admitted free from duty. The like opinion was entertained concerning the encouragement of the brush manufacture, by advising that the bristles of swine should be admitted free. As our country is not known as yet to furnish pure antimony, the exemption of the regulus of

that metal from impost, was thought a sufficient encouragement for the incipient type manufacture. The paper manufacture seemed to be sufficiently provided for, if rags were permitted to be brought into the country without being dutied. Though saltpetre and sulphur both abound in the United States, yet as their preparation is still in a backward state, it was thought that the manufacture of gunpowder would receive due patronage by exempting them both from the payment of impost on their importation from Italy and India. Some think indigo ought to come free; as also the bark of the cork tree.

Second. *Encouragement by laying higher or prohibiting duties on manufactured articles imported.* It has been urged that a duty of twenty-five per centum ad valorem on fur hats, brushes, stoneware, saddles, cannon ball, glass bottles, and glassware of all kinds; and fifty cents on umbrellas; three cents per pound on starch; and four cents on hair powder would have an operation favorable to the domestic enterprise of hatters, brushmakers, potters, saddlers, iron masters, glass, umbrella, and starch manufacturers.

In like manner, it has been considered by a former committee, that if five cents the pound was laid upon imported gunpowder; three cents per pound upon glue; two cents upon tarred cordage; two-and-a-half cents upon untarred cordage or yarns; on printed calicoes an additional duty of two and a half per cent.; on all plated ware, an additional duty of five per cent.; on soap, three cents the pound; on candles of tallow three cents the pound; on anchors, two cents per pound; on spikes or bolts of iron, two cents per pound; on cut, slitted or rolled iron, one cent per pound; on foreign pickled fish, one dollar the barrel; and on all dried fish, one dollar the quintal; there would be an adequate Governmental aid extended to the manufactures of gunpowder, glue, cordage, soap, and candles, anchors, spikes, slit iron, and to the cod fishery.

Thirdly. *Encouragement by withholding drawback from articles of foreign manufacture exported again.* This is done already in the case of loaf and refined sugar, and might easily be extended to other articles.

Fourthly. *Encouragement by allowing drawback of duties paid on domestic manufactures equal to what was paid for the raw materials on their importation.* This has generally been allowed on the exportation of sugar refined from foreign materials, and on rum distilled from foreign molasses, though under our present law neither is entitled to the drawback. It has been supposed that plain cottons which undergo the operation of staining and printing within the country might be permitted to receive drawback on exportation in the form of calicoes.

Fifthly. *By direct bounties.* This mode of encouragement has been thought to have been employed partially in the curing and exporting of codfish; and could be extended to other branches of business if sound policy required it.

From this view of the proceedings of Congress it will appear that much has been done already to encourage the domestic industry of our citizens.

That industry, under such aids as the Government by these means has given at a time when population is so rapidly increasing, has caused useful arts and manufactures to rise up and thrive in almost every part of the country; our works in wood, copper, hemp, leather, and iron, are already excellent and extensive. And if we do not excel in the manufacture of the finer articles of cotton, silk, wool, and the metals, we may felicitate

ourselves that, by reason of the ease of gaining a subsistence and the high price of wages, our fellow-citizens born to happier destinies are not doomed to the wretchedness of a strict discipline in such manufactories.

Our citizens are distinguished for their ingenuity and skill, they have invented many expedients by machinery to shorten and cheapen labor. The machine for making wool and cotton cards, the machines for ginning cotton, the machines for cutting and heading nails, the machinery for elevating wheat, and for raising and stirring meal in mills, and the improvements in the manufactures of muskets, class with the most useful inventions with which the age has been adorned.

It is, perhaps, to be regretted by the petitioners that Congress is deprived of the power to encourage manufactures by imposing duties on certain domestic raw materials if exported; if this, however, had not been withheld by the Constitution, an export duty upon horns and bones of oxen and deer, might operate in favor of the comb, knife, lantern, &c., manufacture; and an export duty upon green myrtle wax, might favor the bleaching of that choice vegetable production and the formation of white candles from it; so, perhaps, the laying an export duty upon furs, would be a ready method of aiding the hat manufacture. Or, to take a stronger case, an export duty on provisions, by making bread, meal, and other articles of food, cheap at home, might be viewed by some of the petitioners as a capital method of lowering labor, and encouraging domestic manufactures. But none of this latter class of expedients is under the control of the Government.

The committee observe, in the Journals of the House, that on the 21st of February, 1803, a resolve was passed, directing the Secretary of the Treasury to prepare and lay before Congress a plan for levying new and more specific duties on goods, wares, and merchandise imported into the United States, so that the same shall, as near as may be, neither increase nor diminish the present revenue collected from imports. From this plan, lately presented to Congress, additional light has been thrown on this subject.

In the meantime it ought to be considered that there is great scope for agriculture, tillage, and rural employment in the United States. Agriculture is the great occupation which sets in motion all kinds of manufactures. It furnishes both the raw materials, and the articles of subsistence, to those who are engaged in manufacturing employments. The cultivation of the earth is, therefore, absolutely necessary to provide the ingredients for artisans to work upon, and the food for enabling them to live, while they are engaged in labor. This being the fact, the great question arises, whether we shall furnish raw materials and food to manufacturers in our own country, or in foreign lands?

Political economists will instantly see that the good of the revenue, and the happiness of the people, are best promoted by offering a part of our unwrought materials, and of our surplus provisions, to domestic manufacturers, and, at the same time, to export the other part of what we can spare, in exchange for the wrought productions of foreign manufactories.

In a country devoted to agriculture, the cluster of arts and trades which minister to its wants spring up, of course, and almost from necessity. The plainer, coarser, and more useful fabrics in wool, leather, iron, flax, cotton, and stone, are manufactured with tolerable skill; while the more fine, costly, and high wrought articles of those several kinds can be procured more

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conveniently from foreign parts. And while the country consumer pays for the former with one part of his spare produce, he barters away the other part to procure a proportion of the latter.

There may be some danger in refusing to admit the manufactures of foreign countries; for, by the adoption of such a measure, we should have no market abroad for our produce, and industry would lose one of its chief incentives at home.

In addition to the wise calculations and estimates of our predecessors in Congress, who devised the existing system of imposts, there may probably be something done. And the following plan appears to the committee as well adapted as anything that has occurred, to suit the wishes of the petitioners as far as seems reasonable, and as far as actual circumstances warrant:

*Resolved*, That rags of linen, cotton, woollen, and hempen cloths; bristles of swine; regulus of antimony; unwrought burr stones; saltpetre; and the bark of the cork tree, (which pay at present twelve-and-a-half per cent. ad valorem,) be admitted free of duties.

*Resolved*, That brushes and black bottles, (now paying twelve-and-a-half per cent.,) be henceforward charged with a duty of twenty-five per cent.

*Resolved*, That fur hats, and plated ware, (which now pay fifteen per cent.,) shall be raised to a duty of twenty per cent.

*Resolved*, That stoneware, window glass, and cannon ball, (which now pay fifteen per cent.,) be hereafter charged with a duty of twenty-five per cent.

*Resolved*, That foreign pickled and dried fish, (which now pay twelve-and-a-half per cent. ad valorem,) be subjected to a duty of \$1 50 the barrel for the former, and of one hundred cents the quintal for the latter.

*Resolved*, That a duty of three cents the pound be laid upon starch, of four cents the pound upon hair powder, and four cents upon glue, on their importation, in lieu of the present duties of fifteen per cent. ad valorem.

*Resolved*, That printed calicoes, and gunpowder, (now paying twelve-and-a-half per cent.,) be henceforward charged with a duty of fifteen per cent.

*Resolved*, That tarred cordage and cables, (now paying 110 cents the cwt.,) be subjected to a duty of two cents the pound; and that untarred cordage, (now paying two hundred and twenty-five cents the cwt.,) be made to pay two-and-a-half cents the pound.

*Resolved*, That a duty of fifty cents a piece be laid upon umbrellas; of three cents per pound upon soap; of three cents the pound upon tallow candles; of two cents the pound upon anchors; of two-and-a-half cents upon spikes, and bolts of iron.

The report was referred to a Committee of the Whole on Monday next.

#### THURSDAY, January 26.

A petition of William Dunbar, of the Mississippi Territory of the United States, was presented to the House and read, praying that the title to a certain lot of land containing about twenty-three acres, within the limits of the city of Natchez, which was granted by the Spanish Government, in consideration of services rendered by the petitioner, may be confirmed to him, in fee simple.

*Ordered*, That the said petition be referred to Mr. LATTIMORE, Mr. ALSTON, Mr. STEDMAN, Mr. THOMAS, Mr. RANDOLPH, and Mr. HAMPTON; to

examine and report their opinion thereupon to the House.

#### LOUISIANA TERRITORY.

The House again resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, of the twenty fourth instant, to whom were referred the amendments proposed by the Senate to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States, by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and, after some time spent therein, the Committee rose and reported to the House their agreement to some, and their disagreement to others, of the said amendments.

The House then proceeded to consider the said report and amendments: Whereupon,

*Resolved*, That this House doth disagree to the first and thirteenth amendments.

*Resolved*, That this House doth agree to the second, third, and fourth amendments.

*Resolved*, That this House doth agree to the fifth amendment to the said bill, for striking out, in the eighth line of the third section, the words, "*Natchez and.*"

The question was taken that the House do agree to the resolutions, and decided in the affirmative—yeas 84, nays 40, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Phaniel Bishop, Walter Bowie, Adam Boyd, George W. Campbell, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, John Fowler, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Gaylord Griswold, Roger Griswold, Samuel Hammond, Seth Hastings, William Helms, William Hoge, James Holland, David Hough, Benjamin Huger, John G. Jackson, William Kennedy, Nehemiah Knight, John B. C Lucas, Matthew Lyon, David Meriwether, Nahum Mitchell, Jeremiah Morrow, James Mott, Anthony New, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, Thomas Plater, Thomas M. Randolph, John Rhea of Tennessee, Cesar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Thompson J. Skinner, James Sloan, John Cotton Smith, John Smith of Virginia, Henry Southard, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Kilian K. Van Rensselaer, Daniel Verplanck, Matthew Walton, Lemuel Williams, Marmaduke Williams, and Richard Winn.

NAYS—Nathaniel Alexander, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, Joseph Clay, Jacob Crowninshield, John B. Earle, Peter Early, William Eustis, William Findley, James Gillespie, Thomas Griffin, Josiah Hasbrouck, Joseph Heister, David Holmes, Samuel Hunt, Walter Jones, Michael Leib, Andrew McCord, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Thomas Newton, jr., Joseph H. Nicholson, Samuel D. Purviance, John Randolph, John Rea of Pennsylvania, Jacob

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Richards, Thomas Sammons, Joshua Sands, John Smilie, John Smith of New York, Richard Stanford, Joseph Stanton, Philip Van Cortlandt, Joseph B. Varnum, John Whitehill, and Thomas Wynns.

*Resolved*, That this House do agree to the sixth, seventh, eighth, ninth, tenth, eleventh, and twelfth amendments to the said bill.

The House then proceeded in the farther consideration of the said amendments of the Senate: When an adjournment was called for, and carried.

FRIDAY, January 27.

Mr. NICHOLSON, from the committee appointed on the twenty-second of November last, who were directed by a resolution of this House, of the twenty-fourth of the same month, "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made a farther report in part thereupon; which was read, and referred to a Committee of the whole House on Monday next.

The House resumed the consideration of the amendments proposed by the Senate to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes:" Whereupon the House agreed to the fourteenth, fifteenth, and sixteenth amendments; and disagreed to the seventeenth amendment of the Senate to the said bill.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, of the twenty-third instant, on the petition of Samuel Corp, of the city and State of New York; and, after some time spent therein, the Committee rose and reported to the House their agreement to the same. The House then proceeded to consider the said report; and so much as is contained in the last clause thereof, being twice read, in the words following, to wit: "That the request of the petitioner is reasonable, and that he ought to be relieved:" the question was taken that the House do concur with the Committee of the whole House therein, and resolved in the affirmative.

*Ordered*, That a bill or bills be brought in pursuant thereto; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

MONDAY, January 30.

Mr. JOHN COTTON SMITH, from the Committee of Claims, to whom was referred, on the 28th of November last, the petition of sundry citizens and inhabitants of the counties of Washington and Allegany, in the State of Pennsylvania, presented the 22d of March, 1796, and the memorial of sundry inhabitants of the four western counties of the said State of Pennsylvania, presented the 30th of January, 1798, made a report thereon; which was read and considered; whereupon, the petitioners and memorialists, respectively, had leave to with-

draw their said petition and memorial, together with the documents accompanying the same.

Mr. DANA, from the Committee of Commerce and Manufactures, presented, according to order, a bill for the relief of Samuel Corp; which was read twice, and committed to a Committee of the whole House to-morrow.

A message from the Senate informed the House that the Senate desire a conference with this House on the subject-matter of the amendments depending between the two Houses to the bill, entitled "An act making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four;" to which conference the Senate have appointed managers on their part.

The House proceeded to consider the foregoing message of the Senate: Whereupon,

*Resolved*, That this House do agree to the said conference; and that Messrs. J. RANDOLPH, R. GRISWOLD, and RODNEY, be appointed managers at the same, on the part of this House.

The House resolved itself into a Committee of the Whole on the report of the committee, of the twenty-sixth ultimo, on "the expediency of granting further time to the proprietors of military land warrants to obtain and locate the same; and, after some time spent therein, the Committee rose and reported several resolutions thereupon; which were twice read, and agreed to by the House, as follow:

1. *Resolved*, That further time ought to be given to claimants of military land warrants to obtain and locate the same.

2. *Resolved*, That further time ought to be given to the holders of military land warrants to locate the same.

3. *Resolved*, That all locations hereafter to be made, shall be on the unlocated parts of the fifty quarter townships and fractional parts of townships, appropriated for satisfying the claims of individuals for military services, by a law of the first day of January, one thousand eight hundred.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolutions; and that Messrs. VAN HORNE, ARCHER, JOHN TRIGG, SAMMONS, and TENNEY, do prepare and bring in the same.

#### COMMISSIONER OF LOANS.

The House took into consideration the resolution of Mr. EPPES, for the appointment of a committee to bring in a bill for the discontinuance of the office of Commissioner of Loans in the several States.

Mr. EPPES observed, that after the discussion which this subject had already received, he should not think it necessary to trouble the House with any further remarks, but that he believed more evil and more inconvenience had been apprehended from this measure than it was calculated to produce. If the office of Commissioner of Loans shall be discontinued, it is not contemplated by the friends of this measure to make any change in the payment of the interest of the public debt—that will still be paid within the individual States—the only change that will take place will be this, that stock of the United States, instead of



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being transferred partly on the books of the Treasury, and partly on the books of the Commissioners of Loans, will be transferrable on the books of the Treasury only. He should confine his observations, therefore, to the right of Congress to regulate the transfer in the way proposed, and to the expediency of exercising this right. By the act passed on the 4th day of August 1790, making provision for the public debt, the then creditors of the United States were invited to come forward and exchange the certificates or evidence of their debt for other certificates. At this time no complete register of the debt of the United States existed, many of the outstanding certificates had never been liquidated at their specie value, and having been issued by various persons in various situations were liable to counterfeit and the public and individuals to imposition. In providing for the payment of the debt it was necessary for the Government to ascertain its amount. This could only be done by calling in the outstanding certificates for liquidation, and for register or exchange. To have compelled every holder of a public certificate in this extensive country, to have resorted to the seat of Government for the purpose of registering or exchanging his certificate, would have been oppressive and unjust. Hence it was found necessary to make provision for receiving the old and issuing the new certificates within the individual States. Under the old Confederation, persons, under the denomination of Commissioners of Loans, had been employed in the different States in borrowing money, and issuing what were called indents of interest. This establishment was adopted by the framers of this law, and as this Government had experienced the inconvenience of wanting a register of her debt, a new duty was assigned to Commissioners of Loans, and the register of the debt rendered perpetual, by confining transfer to certain Government books, partly under the care of these Commissioners, and partly under the control of the Secretary of the Treasury. By the 7th section of the act it is declared that "the stock which shall be created pursuant to this act shall be transferable only on the books of the Treasury, or of the said Commissioners respectively." This provision as to transfer, it was on a former occasion contended, was a part of the contract between the public and the individual, and ought to be considered as one of the conditions on which the public creditor came forward to exchange the evidence of his debt. So far, however, from being a contract between the public and the individual, it is certainly nothing more than an ordinary legislative limitation of the right which the individual before possessed as to transfer. Previous to the passing of this law, certificates were payable to bearer, and, like a bank note or other negotiable paper, were transferable from individual to individual by delivery. By this clause in the law the individual was deprived of this facility of transfer, and compelled, instead of transferring his stock by delivery, to go in person, or by power of attorney, to a particular place, and a particular book, to make his transfer. The Government secured, by this arrangement, a per-

petual register of its debt. The individual gained nothing; and I cannot suppose that a provision which abridged considerably the right of the public creditor as to transfer could have been designed exclusively for his benefit. The regulation was evidently adopted for the public convenience, and intended principally to facilitate the different operations of the Government in the payment of her debt. That this limitation or transfer was designed solely for the convenience of the Government, and not for the benefit of the individual, is evident from the 10th section of the law. This section applies to persons who shall not come forward to subscribe to the new loan—

"Such of the creditors of the United States as may not subscribe to the said loan, shall nevertheless receive, during the year 1791, a rate per centum on the respective amounts of their respective demands, including interest to the last day of December next, equal to the interest payable to subscribing creditors, to be paid at the same times, at the same places, and by the same persons as is hereinbefore directed, concerning the interest on the stock which may be created in virtue of said proposed loan. But as some of the certificates now in circulation have not heretofore been liquidated to specie value, as most of them are greatly subject to counterfeit, and counterfeits have actually taken place in numerous instances, and as embarrassment and imposition might, for these reasons, attend the payment of interest on those certificates in their present form, it shall, therefore, be necessary to entitle the said creditors to this benefit of the said payment, that those of them who do not possess certificates issued by the Register of the Treasury, for the registered debt, should produce, previous to the first day of June next, their respective certificates, either at the Treasury of the United States, or to some one of the Commissioners to be appointed as aforesaid, to the end that the same may be cancelled, and other certificates issued in lieu thereof; which new certificates shall specify the specie amount of those in exchange for which they are given, and shall be otherwise of the like tenor with those heretofore issued by the said Register of the Treasury, for the said registered debt, and shall be transferable on the like principles with those directed to be issued on account of the subscriptions to the loan hereby proposed."

From this section it appears that individuals who did not come forward to subscribe to this loan, who had no share in this pretended contract, were nevertheless compelled to produce their certificates at the Treasury, or before some one of the Commissioners, to lose their right of transferring their certificates by delivery, to receive other certificates in exchange, transferable only on the Government books. Not for the benefit of the individual certainly, who merely exchanged his paper, but for the convenience of the Government, to whom it is always important to know its creditors.

In ordinary transactions between man and man, the mode of transferring a debt is not a part of the contract. A. gives his bond to B. The transfer of the bond is subject to the local regulations of the country where it is given, and, however these regulations may vary, it never has been or will be contended that they affect the

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original obligation of transfer. The regulation of transfer is a mere ordinary act of legislation—a legislative provision, therefore, as to transfer, is like every other legislative provision, subject to legislative change. It would be necessary, therefore, to show that the faith of the United States was pledged expressly, as to the transfer of her debt, or this regulation may certainly be varied as the public convenience shall direct. In the 21st section of the act, the faith of the United States is pledged for the payment of the principal and interest, according to the tenor of the certificates. I know of no part of the act in which the faith of the United States is pledged as to the transfer of the debt. The certificate is the evidence of debt against the public in the hands of the public creditors. If the public discharges its debt, agreeable to the tenor of the certificate, it complies with the whole of its obligation; the certificate does not include any obligation as to transfer, it only promises the payment of the principal and interest, nor is the faith of the United States pledged for more. While we make provision for paying the interest regularly, and for the discharge of the principal within the limited time, no charge of violated faith can be made against the Government.

The question, therefore, resolves itself, in my mind, into a mere question of expediency—when ever the interest of the public and of individuals shall come in contact, I shall be willing fairly to examine what is due to the public, and what is due to the individual. If the office of the Commissioner of Loans is discontinued, it will not affect the value of the stock in the hands of the public creditors, because, it is a fact which will not be denied, that stock on the books of the Treasury is as valuable as stock on the books of the Commissioners; it will not affect the facility or certainty with which the public creditor will receive his interest, because that will still be paid within the different States. It will add nothing to the expense of transfer; because it is contemplated to make it the duty of an officer, residing at the seat of Government, to make the transfer free from expense. It will produce no inconvenience to the individual but this—at present during fourteen days in each quarter no transfer can be made, as during that period the officers prepare the dividend books; if the office of Commissioner is abolished, the books will probably be closed against transfer during twenty-one or perhaps twenty-eight days in each quarter instead of fourteen.

The public will gain the advantage of having all the operations relating to the debt under the immediate control of the Secretary of the Treasury. The public will be released from the dangerous responsibility of officers who make heavy disbursements, and give but little security. The Commissioner of Loans disburses annually in Massachusetts \$785,036; in Connecticut \$113,484; in New York \$770,150; in Pennsylvania \$848,665; in South Carolina \$188,618. Notwithstanding these heavy disbursements, no Commissioner gives security in a larger sum than \$10,000. The disbursements in all the States except North Caro-

lina and Delaware greatly exceed the sum for which the Commissioners give security. The public will gain further, as appears from the letter of the Secretary of the Treasury, an annual saving of \$20,000. The States of Ohio, Kentucky, and Tennessee, will be released from this proportion, a tax from which they receive no earthly benefit, not even a Commissioner.

He hoped that gentlemen who were not decidedly of opinion, that the transfer of stock was a part of the contract with the public creditor, would suffer a bill to be brought in, and the provisions rendered as unexceptionable as possible; if, after the subject is placed in its best form, inconvenience to the public creditor shall still be apprehended, the bill may be finally rejected.

Mr. ELLIOT said he had voted on a former occasion in favor of concurring with the report of the Committee of the Whole in their disagreement to the report of the Committee of Ways and Means, who had declared it inexpedient to discontinue the offices of Commissioners of Loans. In so voting he did not mean to pledge himself for the ultimate vote he should give on this subject. Not having then maturely considered it, his judgment was not fully made up. He was then of opinion that Congress possessed the power of substituting such arrangements in lieu of the Commissioners of Loans as would afford an equal security to the rights of the public creditors; and he was then inclined to believe that such arrangements could be devised. From subsequent impressions, he was of opinion that the public creditor would, whether justly or not he would not say, consider the measure as invasive of his rights. Under this impression he considered the small saving contemplated by this measure as inadequate to the injury, real or imaginary, which it might do to that description of men. On examining the law, he was inclined to think that the public creditor had a right to give it such a construction as would make the mode of transfer prescribed a part of the contract. By the act of August, 1790, it is provided, that

“A Commissioner shall be appointed for each State, to reside therein, whose duty it shall be to superintend the subscriptions to the said loan; to open books for the same; to receive the certificates which shall be presented in payment thereof; to liquidate the specie value of such of them as shall not have been before liquidated; to issue the certificates above-mentioned in lieu thereof, according to the terms of each subscription; to enter in books to be by him kept for that purpose, credits to the respective subscribers to the said loan for the sums to which they shall be respectively entitled; to transfer the said credits upon the said books from time to time, as shall be requisite; to pay the interest thereupon as the same shall become due, and generally to observe and perform such directions and regulations as shall be prescribed to him by the Secretary of the Treasury, touching the execution of his office.”

It is not denied that the payment of interest within the several States is part of the contract between the public and the creditor. By the same section that provides for the payment of the interest, it is also enacted that the Commissioner of

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Loans shall transfer the credits on his books in such manner as shall be required by the creditor. Mr. E. said he never entertained the idea that Congress could act with propriety in abolishing these offices without establishing a substitute in their room, by which transfers might be made in the several States. This idea appeared now to be abandoned by the friends of the measure, and it is now contended that the stock need only be transferable at the seat of Government.

But the gentleman requires those not decidedly hostile to the measure, to suffer a bill to be brought in, whose details may perhaps be satisfactory. Mr. E. said, no bill could be introduced that would succeed in securing his vote, that did not provide for effecting transfers in the several States; and on mature reflection he perceived no way in which this important end could be accomplished.

It was said that this measure would be conducive to public economy. Mr. E. declared himself as much attached to public economy as any member on the floor. But when he viewed the subject in all its aspects, he feared this measure, if adopted, would expose the Government to the imputation of being penny-wise and pound-foolish. For these reasons he should give the resolution his negative.

Mr. J. CLAY regretted that he was not in the House when the honorable gentleman from Virginia had offered his remarks on the resolution before the House. It was not his purpose in rising to detain the House. After the ample manner in which this measure had been discussed on a former occasion, he considered it unnecessary other than briefly to assign the reasons which would govern him in passing his negative on the present motion. From the terms of the act of 1790, he considered the facility of transfer secured to the public creditor by the establishment of the loan office as one part of the contract with the United States. Viewing the subject in this light he did not think that Congress had the power to take this facility away without a violation of the public faith. The facility of transfer certainly added something to the value of the stock. When necessity urged its possessor to part with it, any delay in making the transfer must decrease its value. This point had in a former debate been so fully discussed, and this effect been made so conspicuously to appear, that he deemed it unnecessary to say a single word more upon it. Without referring to the circumstances under which the public debt was created, or to the provisions of the law which formed a part of the funding system, without saying that system was the offspring of folly or of fraud, or adverting to the infamous circumstances attending it, he considered it as the offspring of Congress, and that they were not at liberty to touch a hair of its head.

Mr. J. RANDOLPH said if the question had been taken by a silent vote, he should not have risen; but as the yeas and nays were required, and the vote he was about to give might appear to be inconsistent with that which he had given on a former occasion, he would concisely state the reasons why he should vote against the resolution.

They were these—when the report of the Committee of Ways and Means came into the House, it was attempted to be sustained on the ground that the existence of the loan offices formed part of the compact between the creditors and the public, and that any modification of them would involve a violation of public faith. For this reason, because he was unwilling to affirm a doctrine so untenable, and because he then believed that a modification might be made that would be rather beneficial than hurtful to the creditor, he was opposed to the resolution; and he was happy to find the doctrine that the existence of those offices made a part of the contract was not sustained by the House, and the report was therefore on that ground negatived. When the discussion was on a former occasion prosecuted, Mr. R. said he found gentlemen, without reference to political opinion, from all quarters of the Union, deprecating the subversion of this establishment. In particular, he perceived those gentlemen that represented the largest stockholding States, peculiarly averse to it; among them were several members from Massachusetts, and his learned friend from New York. Many members from North Carolina were also averse to the abolition of these offices. Under these circumstance, he should vote against the resolution. Not because he considered the Legislature as not possessed of the power to do away this establishment; not because he did not believe the plan suggested by the Secretary of the Treasury would not be ultimately beneficial to the public creditors, but because gentlemen, with whom it was his pride and pleasure to act, thought differently. In such a case, he was willing, out of deference to them, and to that which at present appeared to be the public opinion, to give up the saving which might result from the proposed measure.

Mr. R. then read the report of the Committee of Ways and Means on the resolution submitted to them on the subject; and stated that the right of the Government to abolish the loan offices being affirmed by a former vote of that House he was willing for the present to waive the exercise of it.

Mr. SMILIE declared his opinion on this subject unaltered. He never had considered the existence of the Commissioners as a part of the contract, and he had no idea that the public faith would be violated by doing them away.

The question was then taken by yeas and nays, and the resolution rejected—yeas 52, nays 58, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Phanuel Bishop, John Boyle, Robert Brown, Levi Casey, Thomas Claiborne, Matthew Clay, John B. Earle, John W. Eppes, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Wade Hampton, William Hoge, James Holland, John G. Jackson, Walter Jones, Nehemiah Knight, Michael Leib, Matthew Lyon, Alexander McCord, David Meriwether, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erasmus Root, Thomas Sammons, Thomas Sandford, James

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Sloan, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Abram Trigg, John Trigg, Isaac Van Horne, John Whitehill, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—Nathaniel Alexander, Simeon Baldwin, William Blackledge, Adam Boyd, Joseph Bryan, Martin Chittenden, Clifton Claggett, Jos. Clay, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, John Dennis, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, Edwin Gray, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, Seth Hastings, William Helms, David Hough, Benjamin Huger, Samuel Hunt, William Kennedy, Joseph Lewis, jr., Henry W. Livingston, John B. C. Lucas, William McCreery, Nahum Mitchell, James Mott, Beriah Palmer, John Patterson, Samuel D. Purviance, John Randolph, Thomas M. Randolph, Joshua Sands, Ebenezer Seaver, John Smith of New York, John Smith of Virginia, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Thomas Wynns.

And so the said motion was lost.

#### CITY OF WASHINGTON.

The House went into a Committee of the Whole, on the bill supplementary to the act to incorporate the inhabitants of the City of Washington. The first section of the bill made the incorporation perpetual.

Mr. J. RANDOLPH moved to limit its duration to five years from the end of the next session of Congress.

Mr. RODNEY supported, and Messrs. NICHOLSON, J. CLAY, and DENNIS, opposed the motion, which was agreed to—ayes 48, noes 32.

On motion of Mr. DENNIS, a section was introduced, declaring citizens competent witnesses in suits to which the corporation may be a party—when the bill was ordered to be engrossed for a third reading to-morrow.

#### JUDGE CHASE.

Mr. J. RANDOLPH, in the name of the committee appointed to inquire into the conduct of Samuel Chase and Richard Peters, stated that documents had been received by them which occupied a considerable bulk, the printing of which would considerably assist their investigation, by rendering them more convenient for perusal. He added, that it would probably be necessary to print these papers for the information of the House, when the report of the committee was made. He therefore moved the vesting in them authority to cause to be printed such papers as they might conceive proper.

Mr. EUSTIS suggested a doubt of the propriety of printing detached papers, which might produce an improper impression upon the public mind.

Mr. NICHOLSON observed, that it would rest with the committee to preclude, if they saw fit, a publication of the papers, though printed, until the report should be made, and remarked that this was the course pursued by the committee of investigation.

The motion was then carried—ayes 59.

Mr. LEIB said, we had heard much lately about the independence of the judges; that it had been a theme within the walls of this House, and the subject of animated discussion without them. To the *rational* independence of the Judiciary, he professed himself a friend, and to evince his sincerity, he begged leave to submit to the consideration of the House the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of providing by law against the appointment of judges of the courts of the United States to other offices under the Government.

TUESDAY, January 31.

An engrossed bill supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia," was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act in relation to the Navy Pension Fund;" to which they desire the concurrence of this House. The Senate have reconsidered their first, thirteenth, and seventeenth amendments, disagreed to by this House, to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the 30th of April, 1803, between the United States and the French Republic, and for other purposes;" and desire a conference with this House on the subject-matter of the said amendments; to which conference the Senate have appointed managers on their part.

The House proceeded to consider so much of the foregoing message of the Senate as desires a conference with this House on the subject-matter of the amendments depending between the two Houses to the bill therein mentioned: Whereupon,

*Resolved*, That this House do agree to the said conference; and that Messrs. NICHOLSON, JOSEPH CLAY, SANDS, HASTINGS, and NEWTON, be appointed managers at the said conference, on the part of this House.

#### SALARIES OF CERTAIN OFFICERS.

The House went into a Committee of the Whole on the salary bill.

Mr. J. RANDOLPH moved to fix the salary of the Secretary of State at \$5,000 per annum.

Mr. ELMER moved to fix it at \$4,500.

On Mr. RANDOLPH's motion, the Committee divided—ayes 64, noes 22.

The salary of the Secretary of the Treasury was fixed at \$5,000 by a like division.

Mr. J. RANDOLPH moved to fix the salary of the Secretary of War at \$4,500.

Mr. ELMER moved to fix it at \$4,000.

First motion carried—ayes 50, noes 33.

The salary of the Secretary of the Navy was fixed at \$4,500—ayes 55.

The salaries of other officers were fixed in the same manner as by the act of 1799.

On fixing the salary of the Postmaster General, Mr. HOGG moved to fill the blank with \$4,000.

Mr. VARNUM moved \$3,500.

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Mr. J. RANDOLPH moved \$3,000, the sum fixed by the act of 1799.

Mr. LEIB moved \$2,000.

The motion to fill the blank with \$4,000 was lost—ayes 17.

MESSRS. VARNUM, GREGG, CLAIBORNE, and SOUTHARD, supported the motion to fill the blank with \$3,500, on the ground that the duties of the Postmaster General had greatly increased within these few years.

Mr. ALSTON opposed the motion; which was agreed to—ayes 59, noes 46.

Mr. J. RANDOLPH moved to fix the salary of the Assistant Postmaster General at \$1,700.

Mr. VARNUM moved \$2,000.

The last motion having failed—ayes 35, noes 47—that of Mr. RANDOLPH prevailed.

The Committee rose, and reported the bill with the above-stated amendments.

On agreeing to the report of the Committee, so far as it went to fix the salary of the Secretary of State at \$5,000, a desultory debate ensued, not so much on the proposed compensation, as on the mode in which the bill had progressed.

By MESSRS. CONRAD, GREGG, ELMER, and RODNEY, it was remarked that a bill similar in substance with this having failed, owing to the disagreeing votes of the two Houses, it was contrary to parliamentary usage to permit a similar bill to be introduced during the same session. They further expressed their opinion, that it would be most proper to postpone the subject until the next session, when the consideration of compensations generally might be more advantageously entered upon.

MESSRS. EUSTIS and SMILIE advocated the correctness of the form as well as principle of the bill, and asked if there was not an absolute necessity imposed upon the Legislature, in case bills making appropriations for the civil list or military establishment should be rejected, to re-originate bills having the same object?

The yeas and nays were taken on agreeing with the Committee in fixing the salary of the Secretary of State at \$5,000, and carried—yeas 80, nays 31, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Clifton Claggett, Thomas Claiborne, Jacob Crowninshield, Richard Cutts, John Dawson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, John W. Eppes, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, Wade Hampton, John A. Hanna, William Helms, James Holland, David Holmes, Benjamin Huger, Samuel Hunt, Walter Jones, William Kennedy, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Andrew McCord, William McCreery, Nahum Mitchell, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Beriah Palmer, Thomas Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, Joshua Sands, Eben-

ezer Seaver, Tompson J. Skinner, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Abram Trigg, John Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, John Whitehill, Richard Winn, and Thomas Wynns.

NAYS—Isaac Anderson, Phanuel Bishop, William Chamberlin, Martin Chittenden, Joseph Clay, Matthew Clay, Fredrick Conrad, John Davenport, John Dennis, Ebenezer Elmer, Andrew Gregg, Gaylord Griswold, Joseph Heister, William Hoge, David Hough, Michael Leib, Joseph Lewis, jun., David Meriwether, Thomas Moore, James Mott, Gideon Olin, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, James Sloan, Henry Southard, Richard Stanford, John Stewart, Isaac Van Horne, Marmaduke Williams, and Joseph Winston.

The remaining salaries were affirmed by the House, until they reached the allowance to the Postmaster General reported by the Committee, viz: \$3,500, being \$500 beyond the past allowance.

On agreeing to this sum, a debate ensued—MESSRS. VARNUM, ELLIOT, LYON, and HOLLAND, advocated, and MESSRS. HUGER, LUCAS, NICHOLSON, and EUSTIS, opposed its adoption. The question being taken, it passed in the negative—yeas 53, nays 66, as follows:

YEAS—John Archer, David Bard, Walter Bowie, Adam Boyd, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Clifton Claggett, Thomas Claiborne, Jacob Crowninshield, Richard Cutts, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, John Fowler, Andrew Gregg, Samuel Hammond, Wade Hampton, William Helms, James Holland, Thomas Lowndes, Matthew Lyon, Andrew McCord, David Meriwether, James Mott, Anthony New, Gideon Olin, Beriah Palmer, Oliver Phelps, Samuel D. Purviance, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smith of New York, John Smith of Virginia, Henry Southard, Richard Stanford, David Thomas, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, John Whitehill, Richard Winn, and Thomas Wynns.

NAYS—Willis Alston, jun., Nathaniel Alexander, Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, William Blackledge, John Boyle, Robert Brown, William Chamberlin, Martin Chittenden, Joseph Clay, Matthew Clay, Frederick Conrad, John Davenport, John Dawson, John Dennis, William Dickson, Thomas Dwight, John W. Eppes, William Eustis, James Gillespie, Peterson Goodwyn, Edwin Gray, Thomas Griffin, John A. Hanna, Joseph Heister, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, John B. C. Lucas, William McCreery, Nahum Mitchell, Thomas Moore, Jeremiah Morrow, Thomas Newton, jun., Joseph H. Nicholson, Thomas Plater, John Randolph, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Joshua Sands, John Smilie, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Tenney, Samuel Thatcher, Abram

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Trigg, John Trigg, Isaac Van Horne, Matthew Walton, Lemuel Williams, Marmaduke Williams, and Joseph Winston.

The blank was then filled with \$3,000.

Mr. J. RANDOLPH offered a new section, limiting the duration of the bill to three years, and to the end of the next session of Congress thereafter. Carried—ayes 51, noes 45.

The bill was ordered to be engrossed for a third reading to-morrow—ayes 51, noes 47.

Mr. J. RANDOLPH, from the Committee of Ways and Means, to whom was recommended, on the twentieth instant, the amendment proposed by the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboba," made a report thereon: Whereupon the amendment of the Senate, together with the bill, were committed to a Committee of the whole House to-morrow.

### WEDNESDAY, February 1.

Mr. NICHOLSON remarked that, from information received from the Navy Department, it appeared to him that a modification of the subsisting arrangements for the distribution of the officers and seamen on board of national vessels laid up in ordinary, would be advantageous to the public service, while a retrenchment of about \$30,000 a year could be probably made. With this view he moved the appointment of a committee to inquire into the expediency of amending the act providing for a Naval Peace Establishment.—Agreed to, and a committee, consisting of Messrs. NICHOLSON, SANDS, CUTTS, LOWNDES, and STANTON, appointed.

### SALARIES OF CERTAIN OFFICERS.

An engrossed bill fixing the salaries of those officers of Government whose salaries were increased by the act of the 2d of March, 1799, was read the third time.

Mr. LEIB moved to postpone the bill to the first Monday in December next.

This motion was supported by Messrs. GREGG, LEIB, J. CLAY, ELLIOT, THATCHER, ELMER, and SLOAN; and opposed by Messrs. RODNEY, J. RANDOLPH, DAWSON, SMILIE, EUSTIS, FINDLEY, NICHOLSON, and HUGER.

The advocates of the motion assigned different reasons for the votes they contemplated giving. Some declared themselves hostile to the quantum of allowance, as too high; others considered the apportionment of compensation partial and unequal, and were of opinion that it would be best to defer the entire subject of compensations to the ensuing session, when it might be gone into generally, and a permanent salary given to each officer correspondent to the services rendered by him. But the principal grounds of opposition to the passage of the bill, and in favor of its postponement, were, 1st. The rejection of a bill that very session alleged to be substantially the same with that under consideration; and, 2d. The insufficient and disproportionate salary allowed by it to the Postmaster General.

It was declared to be unparliamentary, incon-

venient and dangerous, to permit a measure, similar in substance to one previously rejected the same session, to be brought again before the House. To show that it was unparliamentary, sundry precedents were appealed to in the proceedings of the British Parliament, and the invariable practice of Congress was likewise urged; it was said to be inconvenient, from the great waste of time it produced, after a full discussion of any subject; and it was declared to be highly dangerous from the power which it gave a minority at the close of a session to avail themselves of the accidental absence of members, to carry a favorite measure, though opposed by the express sense of the majority at an early period of the session. It was contended that the present bill was substantially the same with that lately before the House, and lost, owing to the disagreeing votes of the two Houses. This was evident from the salaries allowed being precisely similar in both bills; and it was insisted that the limitation of the last bill to three years did not discriminate it from the preceding bill, inasmuch as its effects would be as permanent as those of the former, should it be renewed from time to time.

The insufficient and disproportionate salary allowed the Postmaster General was strenuously insisted upon as an argument for postponing the bill. The office, it was alleged, required eminent talents, which the present officer, by the discharge of its duties, had shown himself fully to possess. Since the year 1799, the duties of the Post Office Department had greatly increased, and called for a remuneration, in some degree, correspondent to them.

The opponents of the postponement avowed their impression—an impression sanctioned on a late occasion by a great majority of the House—that the salaries allowed by the bill were moderate, and in no instance more than an equitable compensation for services performed. They contended that great inconvenience would flow from postponing the making compensations to the Executive officers until the ensuing year, and that the effect of such omission would be the necessity of then passing laws retroactive in their operation, which would be to create a precedent of an alarming nature, that might lead a Legislature, which had lost the confidence of their constituents, to empty the public Treasury into the hands of their favorites as a remuneration for services, compensated at the time they were rendered, by a smaller and what was then considered a competent allowance.

They contended that this bill was not the same with the one previously before the House, as the one was limited to three years duration, and the other was permanent; and that this variation constituted a characteristic and marked difference. That, as to precedents, those referred to, in the proceedings of the British Parliament, were opposed by others, afforded by the same body, which justified not only the passage of the present bill, but which went farther, and would justify the passage of a bill the same with one previously rejected. That this bill had not, in point of fact,

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been rejected; the principle of it had been affirmed by large majorities of both Houses, and the only difference arose on the amendment of the Senate for making an addition to the salary of the Postmaster General. It was further contended that the precedents of the British Parliament did not apply to the proceedings of Congress, who were free to act for themselves, who, as they had adopted no written rule applicable to this case, were under no other restraints than those which flowed from their own convictions of the good or ill effects of particular modes of procedure.

In reply to the alleged incompetency of the compensation allowed the Postmaster General, it was admitted that the present officer had ably and faithfully discharged the duties of the department, but it was denied that his official duties were of the grade asserted. While they required respectable talents, they did not call for those great and rare qualifications essential to the able administration and superintendence of the other great departments of the Government.

The question was then taken by yeas and nays on the postponement, and passed in the negative—yeas 45, nays 72, as follows:

YEAS—Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, Phannuel Bishop, William Chamberlin, Martin Chittenden, Clifton Claggett, Joseph Clay, Frederick Conrad, John Davenport, Thomas Dwight, James Elliot, Ebenezer Elmer, John Fowler, Andrew Gregg, Gaylord Griswold, Joseph Heister, William Helms, William Hoge, William Kennedy, Michael Leib, Joseph Lewis, junior, Thomas Lewis, Matthew Lyon, David Meriwether, Nahum Mitchell, Thomas Moore, Gideon Olin, Beriah Palmer, Jacob Richards, Erastus Root, Thomas Sammons, Ebenezer Seaver, James Sloan, Richard Stanford, William Stedman, John Stewart, Samuel Thatcher, David Thomas, Abram Trigg, John Trigg, Isaac Van Horne, Marmaduke Williams, and Thomas Wynns.

NAYS—Willis Alston, junior, John Archer, William Blackledge, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, George W. Campbell, John Campbell, Levi Casey, Thomas Claiborne, Matthew Clay, John Clopton, Jacob Crowninshield, R. Cutts, John Dawson, John Dennis, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Thomas Griffin, Samuel Hammond, Wade Hampton, James Holland, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, Walter Jones, Nehemiah Knight, Thomas Lowndes, John B. C. Lucas, Andrew McCord, William McCreery, Jeremiah Morrow, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, John Patterson, Oliver Phelps, Thomas Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Cesar A. Rodney, Thomas Sandford, Joshua Sands, John Smilie, John Smith of New York, John Smith of Virginia, Henry Southard, Joseph Stanton, James Stephenson, Samuel Taggart, Samuel Tenney, Philip R. Thompson, Philip Van Cortlandt, Daniel C. Verplanck, Matthew Walton, John Whitehill, Richard Winn, and Thomas Wynns.

And then the main question being taken that

the said bill do pass, it was resolved in the affirmative—yeas 57, nays 52, as follows:

YEAS—Willis Alston, junior, John Archer, William Blackledge, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, George W. Campbell, John Campbell, Levi Casey, Thomas Claiborne, John Clopton, Jacob Crowninshield, Richard Cutts, John Dawson, John Dennis, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Samuel Hammond, Wade Hampton, James Holland, David Holmes, Benjamin Huger, Walter Jones, Nehemiah Knight, John B. C. Lucas, Andrew McCord, William McCreery, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, John Smilie, John Smith of New York, John Smith of Virginia, Joseph Stanton, Samuel Tenney, Philip R. Thompson, Philip Van Cortlandt, Daniel C. Verplanck, Matthew Walton, John Whitehill, Richard Winn, and Thomas Wynns.

NAYS—Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, Phannuel Bishop, William Chamberlin, Martin Chittenden, Joseph Clay, Matthew Clay, Frederick Conrad, John Davenport, Thomas Dwight, James Elliot, Ebenezer Elmer, John Fowler, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Joseph Heister, William Helms, William Hoge, Samuel Hunt, William Kennedy, Michael Leib, Joseph Lewis, jun., Thomas Lewis, Thomas Lowndes, Matthew Lyon, David Meriwether, Nahum Mitchell, Thomas Moore, James Mott, Gideon Olin, Beriah Palmer, Oliver Phelps, Jacob Richards, Cesar A. Rodney, Erastus Root, Thomas Sammons, Ebenezer Seaver, James Sloan, Henry Southard, Richard Stanford, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Thatcher, David Thomas, Abram Trigg, Isaac Van Horne, and Joseph Winston,

*Resolved*, That the title be, "An act continuing, for a limited time, the salaries of the officers of Government therein mentioned."

Mr. EARLY moved the following resolution:

*Resolved*, That to witnesses summoned to attend any committee of this House, during the present session of Congress, there shall be paid, out of the contingent fund of the House, the sum of — per day for their attendance, and the further sum of — for every twenty miles' travelling. And that to any messenger, sent under an order of the House for the person of a witness, there be paid, from the same fund, the sum of — for every twenty miles' travelling.

The House proceeded to consider the said motion at the Clerk's table; when, an adjournment being called for, the House adjourned.

THURSDAY, February 2.

The House took up the following resolution, moved by Mr. EARLY:

"*Resolved*, That, to witnesses summoned to attend any committee of this House, during the present session of Congress, there shall be paid, out of the contingent fund of the House, the sum of *two dollars and fifty cents* per day for their attendance, and at the rate of *twelve and an half cents* for every mile's travelling. And that, to any messenger sent under an order of the



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House for the person of a witness, there shall be paid, from the same fund, at the rate of *three dollars* for every twenty miles' travelling."

The sums in *italic* were left blank in Mr. EARLY's original motion, but were so fixed after an expression of considerable diversity of opinion; when the resolution, so amended, was agreed to—ayes 69.

The bill sent from the Senate, entitled "An act in relation to the Navy pension fund," was read twice, and committed to a Committee of the whole House on Monday next.

The House resolved itself into a Committee of the Whole on the report of the Committee of Ways and Means, of the thirty-first ultimo, to whom was recommended the amendment of the Senate to the bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha;" and, after some time spent therein, the Committee rose, and reported to the House their agreement to the report.

The House then proceeded to consider the said report and amendment; whereupon, the House agreed to the said amendment of the Senate, with an amendment thereto, by adding the following words at the end of the first section:

"And that the further sum of seven hundred and thirty-eight dollars and twenty-five cents be, and the same hereby is, appropriated for defraying the expenses incurred for the said ship, whilst in possession of the captors."

Mr. J. CLAY observed, that, by looking over a printed paper on their tables, he perceived there were several articles on which the drawbacks allowed exceeded the duties. He therefore moved a resolution instructing the Committee of Ways and Means to inquire into the expediency of discontinuing the allowance of drawback on spirits, gunpowder, soap, candles, and playing-cards of foreign manufacture, and of allowing, in the lieu of drawback, — per gallon on all spirits exported, both of foreign and domestic manufacture. The motion was agreed to.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, of the sixteenth of December last, to whom were referred the petition of John F. Randolph and Randolph McGillis, in behalf of themselves and others, together with a report of the Secretary of War, accompanied with sundry documents respecting claims against the United States for services of the militia of the State of Georgia; also, the report of a select committee thereon; and, after some time spent therein, the Committee rose and reported progress.

FRIDAY, February 3.

*Ordered*, That the Committee of the whole House, to whom was committed, on the fifteenth of December last, the report of the committee on a petition of the Mayor, Aldermen, and Assistants of the city of Natchez, in the Mississippi Territory of the United States, be discharged from the consideration thereof; and that the said report and petition be referred to the committee appointed,

on the twenty-sixth ultimo, on the petition of William Dunbar, of the said Mississippi Territory.

Mr. J. RANDOLPH, from the committee appointed, presented a bill, supplemental to the act, entitled "An act concerning the City of Washington; which was read twice and committed to a Committee of the Whole on Monday next.

*Ordered*, That Mr. GRAY be excused from serving on the committee appointed on the twenty-first of December last, "to inquire whether any, and if any, what description of claims against the United States are barred by the statutes of limitation, which in reason and justice ought to be provided for by law," and that Mr. MOTT be appointed on the said committee in his stead; also, that Mr. DAVENPORT be appointed on the same committee in the room of Mr. TALLMADGE, who has obtained leave of absence.

#### GEORGIA MILITIA CLAIMS.

The House went into Committee of the Whole on the report of the Committee of Claims, on the petition of John M. Randolph and Randolph McGillis, which is unfavorable to the prayer of the petitioners.

The petitioners claim their pay as militiamen, called out in the State of Georgia for the protection of that State against the Indians. They allege, that, being called out under the authority of the Government of the United States, the General Government is bound to compensate them and the other men called out for their services.

The Committee of Claims report that the petitioners are to look for compensation to the State of Georgia, who, by the articles of cession recently concluded, had agreed to receive one million two hundred and fifty thousand dollars, in full for all demands for military service.

Mr. EARLY.—Mr. Chairman, I cannot but be sensible of the difficulty which opposes itself to the present claim after an unfavorable report from the committee to which it was referred. And it is impossible not to discern that this difficulty is increased by the opinion of the Attorney General upon the construction of the articles of cession from Georgia to the United States. But as to that opinion, it may not be improper to observe, that so far as it applies to the case of the claimant, it is repelled by the positive certificate of two of the Georgia Commissioners, gentlemen of veracity and legal talents equal with himself. To give to the opinion, or rather the "private ideas and recollections" of that officer, the weight and authority which have been thereunto attached by the Committee of Claims, would be to adopt in practice a principle at war with the maxims of all free Governments, it would be to constitute the framer of an instrument the judge of its construction. This is the essence of despotism. But I apprehend that neither the principle laid down in that opinion nor the facts therein stated do bear upon the case; but that the facts do negatively prove that the claims now under discussion were not included in the compensation stipulated to Georgia in the articles of cession and agreement. The principles are, that the term "territory," as

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used in the instrument, meant not only the territory ceded, but that retained. Now, Mr. Chairman, as I cannot possibly comprehend what bearing this has upon the question before us, I must be excused if I leave the Attorney General in the undisturbed enjoyment of his premises and pursue the discussion. Another principle which he appears to consider as unquestionable, is only necessary to be stated to show that it proves as little to the purpose as the former. He says that the words in the cession which stipulate that the one million two hundred and fifty thousand dollars shall be paid to Georgia "as a consideration for the expenses which the said State had incurred in relation to the said territory," must, from the mere force of the terms, include all expenses which that State had incurred for past military defensive operations. Now, sir, as it has never been admitted that the claims at present under discussion did constitute an expense which had been incurred by the "State," and as it is only upon the establishment of that principle that a rejection can possibly be authorized, I humbly conceive that the Attorney General has assumed that which it was essentially incumbent upon him to prove. So much for his principles. The facts by him stated are, that the Commissioners of Georgia, by way of inducement to the stipulation for paying a certain sum of money as a consideration for the cession, represented that the State had a debt incurred for military defensive operations, "which the United States upon an application had unreasonably refused to allow." Now, sir, as neither part of this description can apply to the claims of individuals against the United States for services performed under the sanction of the General Government, and which so far from having been unreasonably refused allowance by that Government, had not at the date of the compact been even the subject of discussion in its counsels, that statement must necessarily have relation to some other debt. This other debt I will now unfold.

So early as the year 1787 the State of Georgia, being sorely distressed by the violence of the Indians, passed a law directing the establishment of two regiments of troops to serve until a restoration of peace could be secured. But the enlistments not having been completed, in the following year a law was passed holding out additional inducement, and in the year 1789 the present Federal Constitution having gone into operation and the rights of peace and war thereby vested exclusively in the General Government, the Legislature of Georgia passed a law discharging the troops which had been enlisted, and declaring the rate of pay which they should receive. For this pay certificates were directed to be issued, and these certificates constitute a debt unredeemed to this day. [Mr. E. turned to the several laws above referred to and read from each extracts as proofs of his statement.] Here, Mr. Chairman, you have unfolded a debt, which, without the least violence to construction, fills up the description given in the articles of cession. Here are expenses incurred by the State totally distinct

from and unconnected with the claims now under discussion. It is important also to observe, that every attempt made by the State of Georgia prior to the cession to dispose of her vacant territory, appears from the face of the acts to have been dictated by a view of discharging the public obligations to those troops. No less than three attempts at a disposition of her territory were made prior to the cession. The first was an offer to cede to the General Government, in 1788, provided Congress would pay the expenses which had then accrued in defending the frontiers, and would yield the wanted protection in future at their own expense. This was rejected. In the following year a law passed for disposing of a part of the territory to companies, notoriously with a view to raise money wherewith to meet the same engagements. This also failed, for causes which have been amply unfolded to the House on another occasion. The next attempt was in the year 1795, which, in the very title of the law, is expressed to be made to meet the particular engagements to the same soldiery. Of the result of this transaction the House is also possessed. The last attempt was by the articles of cession. Thus it appears that in no instance were the present claims ever thought of as a debt to be met by the State of Georgia out of the proceeds of her unlocated lands, but that the expenses incurred by, and the engagements made to the troops in the years 1787, 1788, and 1789, were uniformly the moving cause toward a disposition of her territory.

The Committee of Claims however, sir, notwithstanding they have throughout their report endeavored to rest upon the Attorney General the responsibility of the construction given to the cession, have at the same time erected a pillar of their own to support it, where they saw it must fall. They well perceived that all reasoning upon the subject was idle, unless one principle could be established; this they have boldly advanced to, and instead of proving have assumed as the groundwork of their whole superstructure. It is, that the State was bound in the first instance to compensate the soldiery, notwithstanding the ulterior responsibility of the General Government. From this they infer that the State had a right and by the cession did exercise the right of exonerating the latter Government. Now, Mr. Chairman, grant to the Committee their premises and there is an end to the question between us; their consequences must result. But, sir, I must supplicate their pardon if I refuse my assent to their position until my judgment is convinced. And I must be pardoned for saying that the reasoning to which they have resorted for the purpose of proving it, strikes my mind as the reverse of sound; that it proves too much to prove anything. It is, that the State Government is in the first instance liable, because the troops were called into the field by the State Executive. This reasoning, Mr. Chairman, would go to prove that in every instance in which militia have been called into the service of the General Government, the States from which they were draughted were in the first instance liable for

their compensation, because, in every case which has taken place, they were called into the field by State Executives. The truth is, sir, that in every case the orders have issued from the Executive of the General Government to that of the State Government, and that orders have from the latter issued in consequence thereof, for making the requisite draughts; so that the troops engaged in service under the immediate directions of the State, but under the mediate directions of the United States. This was the course pursued in both the insurrections in the State of Pennsylvania; it was the course in the State of South Carolina in relation to Indian invasion, at the same period at which the services were performed in Georgia for which we are now claiming compensation. It was the same course the other day with the troops ordered down the Mississippi to occupy New Orleans and its dependency. In all these cases the troops were compensated by the General Government in the first instance. It never entered the heart of any man that the States from which the draughts were made, were in the first instance liable, and that resort must afterwards be had by the State Government against the United States. I have always been taught that precedents established principles, but it now seems that the Committee of Claims in the profoundness of their researches have discovered that by assuming premises, principles may be established in the face of an uniform current of precedents.

There are, Mr. Chairman, two modes marked out in the Constitution in which the militia may be called into service. The first is a case where from necessity the war attribute of sovereignty is left in the individual States. It is the case of invasion or such imminent danger thereof as will not admit of delay. The other mode is that of issuing orders from the Executive of the General, to the officers of the State governments. This is the usual method by which the militia of the States are drawn into the service of the United States. And it is of importance to observe here, that the act of Congress which was intended to give effect to the Constitutional powers of the General Government to "call forth the militia," authorizes the President "to issue his orders for that purpose to such officer or officers of the militia as he shall think proper." For, inasmuch as there can be no other difference in a military point of view, and for military purposes, between the Governor of a State and the next highest military officer, than the difference of rank, the one being first, the other second, in command, it must follow that if the militia are to resort for pay to the State Governments because their orders have passed through the Governor, they must also resort to the same source in case their orders should pass through the second or third in command; the principles upon which the committee found their reasoning apply equally to both cases. The soundness of conclusions drawn by the committee is, therefore, not merely questionable, but to me it appears not difficult to prove that the conclusions themselves are at war with the most obvious principles of justice.

I hold it, sir, accordant with the most common rules by which individuals are regulated in a state of society, that when service is performed, the party for whom it was performed is the only one responsible for the compensation. The rule applies with equal force to the case of Governments, who are moral agents. Happily, Mr. Chairman, there is no difficulty in ascertaining the party for whom the service was performed in the case under discussion. Fortunately for the States in general, it is made the Constitutional duty of the General Government to "protect each of them against invasion." And fortunately for the State of Georgia in the present instance, there is the recorded sanction of the Executive of the Union, couched in the following words—"If the information which you may receive, shall substantiate clearly any hostile designs of the Creeks against the frontiers of Georgia, you will be pleased to take the most effectual measures for the defence thereof, as may be in your power, and which the occasion may require." If, therefore, the principles and reasoning of the committee be correct it must follow that troops engaged in performing the Constitutional duty of the United States must resort for their compensation in the first place to the States. To premises leading to such conclusions, I will not, cannot yield assent.

Mr. Chairman, it is recollected that when this subject was under discussion at the last session of Congress, a distinction was taken between the situation of troops called into the field by order from the General Government, and those called out by the State Executive in virtue of authority given by the former. But sir, I humbly apprehend that such a distinction is one of words, and not of principles. And I must here profess to the honorable Committee of Claims my profound acknowledgment, for furnishing me with an idea, and a mode of phraseology most suited to my purpose. They, in their report have told the House that the "manner of exhibiting" the demand, assuredly cannot change its nature. Now, sir, I repeat, in nearly their own words, that the manner of calling out the troops, cannot change the nature of the service. It cannot change the United States service into State service. And indeed the Committee of Claims themselves have given us the strongest proofs, that with them the distinction had no weight. For of claims which have been so contradistinguished in the reports from the War Department, there were committed to them, both descriptions; but they draw no difference. Indeed, their principles would admit of none.

But, sir, if a difference in principle did exist between claims of the two kinds, it would prove nothing in the present case, because the difference does not here appear in fact; and I cannot but consider it as one of the unfortunate circumstances attendant upon our claims, that the epithet *unauthorized*, has, without foundation, been attached to them, because, as was supposed, they were founded upon services not specially ordered. The fact is, Mr. Chairman, that they were not only *authorized*, but they were *ordered*, by the General Govern-

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ment. I beg leave to compare the tenor of the orders for draughting the militia in Georgia, with the orders issued in other cases, about which no difficulty ever occurred. The words used in the Georgia case are, "you will be pleased to take the most effectual measures for the defence thereof," &c. What are the words used in the orders issued to the Governors of four States, to march militia to quell the insurrection in the Western counties of Pennsylvania? "I have to request your Excellency," &c. The words are the same in every other instance in which militia have been ordered into the service of the United States. They are the same which were used for enlisting the one hundred horse and one hundred foot to serve upon the frontiers of Georgia, about whose compensation there never has, until the present moment, been any difficulty; they are the same under which several corps were raised in the same quarter, whose services have long since been remunerated.

Let us here pause for a moment, and view the extent to which we shall be led by adopting the report. Sir, the principles of that report, and the application therein made of those principles, lead to a conclusion from which, if I mistake not, every gentleman upon this floor will revolt. Sure I am, every State in the Union will reject it with horror. What, sir! has the great, the all-important right of peace and war been yielded up by the States to the General Government, and yet the States bound to compensate for war services? It is no reply to this conclusion to be told that the States are only liable in the first instance; for it is then completely within the power of the General Government, by *withholding*, to make them bear the burden altogether. And to that may be added, that the expenditure might frequently be of such magnitude as to create extreme oppression in the imposition of taxes, and, in some States, might produce general ruin and bankruptcy.

There is, Mr. Chairman, one other fact to which I deem it important to call the attention of the House, and it is the last with which I will trouble them. From a report made by a select committee upon this claim, at the last session, it is ascertained that the supplies furnished to these troops were paid for by the General Government. Now, sir, I wish some gentleman would undertake to answer the question, whether such payment was not an unequivocal acknowledgment of the validity of this claim as against the United States. To my mind there is nothing more clear. If the troops were in the service of Georgia, why did the United States supply them? Where is the instance of troops in the service of one Power, supplied by another? Sir, the General Government was not surprised into this payment. It was made long after the services were performed, and when all the circumstances were well known. This act was—it cannot be considered in any other light than, an acknowledgment that the service was performed under the United States. Such acknowledgment, sir, creates an assumption too, which would bind any individual in a court of justice. It is conclusive against the Govern-

ment, and a refusal to abide by it, will prove a dishonorable abandonment of the common principles of justice, because there is wanting a power of enforcement.

Mr. Chairman, I will conclude these observations, by bringing home to the House a question before asked—for whom was the service performed? From him must be the debt. Between him and the soldier was the contract. By rejecting the present claims, you will impair that contract—you will violate the Constitution of your country. What right has this Government to turn over its creditors, without their consent, to any State for payment? And truly, sir, if these unfortunate troops are to depend for their compensation upon your performance of the articles of cession, in paying the money you have therein stipulated, you have already given them a woful specimen of the soundness of that dependence. For by that compact this Government was, within twelve months, to open a land office, for the purpose of raising as speedily as possible, the sum to be paid. Where is your land office, sir? Nearly two years have elapsed, and we find it no where but upon paper. The public faith is pledged for the demand of the claimants—their pay is their right. To refuse it longer will be to stamp upon the national character, a wound, which it will deserve to carry unhealed so long as it has existence.

Mr. J. C. SMITH observed that the Committee of Claims, in submitting to the House the reports then before them, had not been influenced by the magnitude of the sum claimed for services. The simple question considered by them, was whether compensation had, or had not been rendered for those services. The decision of this question depended on another question, whether from the nature of our Government, the State of Georgia was to be considered as, in the first instance, liable for the satisfaction of these claims. If this should be admitted, he thought the proper construction to be placed on the articles of cession was extremely plain. There are two ways in which the militia of a State may be called out by the Executive of the United States. The first is by a direct detachment of any portion of the militia. It was not necessary, in any instance, for the Government of the United States to call on the Executive of a State for this purpose. It was in their power directly to call into the public service a brigade or other division. This is one course, which may be pursued, and in this case it is admitted that the soldiers are soldiers of the United States, and that for their compensation they are to look to no other Government than that of the United States, in the first instance. The other course is that where a requisition is made by the General Government on the Executive of a State. What is the state of things in this case? It must be presumed that the citizens of a State, thus called into service, are to look to their own State for compensation in the first instance, though he admitted that the General Government was in the last resort responsible. They are to look, in the first instance, to the State Government, for this obvious reason: The Gov-

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error of a State is not amenable to the General Government; and he consequently cannot be punished for exceeding their orders. Is that Government then bound at all events to pay the expenses incurred in consequence of the orders of the State Executive, when they may be in direct violation of the orders of the General Government? It is a clear position then, that when the militia are called out by the Executive of a State they are to look to the State in the first instance. Application may be made to the General Government in the first instance, and if there shall have been no disobedience to its orders it may make payment; but, put the case of the orders of the General Government being disobeyed, will it be contended that it will be obliged to remunerate services rendered in opposition to its commands?

Contemplating the subject in this view, it must be admitted that the militia are in the first instance to look to the State Government, which may make a compromise with the General Government.

The second question is, what is the nature of the compromise made in this case? The articles of cession purport to be [Mr. SMITH here quoted the beginning of these articles.]

It may here be proper to premise that Georgia is the first State in the Union that has ever received a compensation for her territory transferred to the United States. That territory was acquired by the joint exertions and blood of the citizens of all the States. Under such circumstances it becomes necessary to inquire into the compensation stipulated to be given by the United States to the State of Georgia; a compensation not given for the land, but for expenses incurred by Georgia in relation to it. The Attorney General tells us that these expenses were incurred for the portion surrendered to the United States, as well as for the whole State.

It behooves the gentleman from Georgia to show the precise expenses incurred. Were this once proved it would remove all doubt. The Commissioners who formed the articles of cession, it may be presumed, had before them the whole materials; and it must be inferred that the claims now made were fully considered by them, and were, so far as they are just, included in the settlement. Mr. S. concluded his remarks by saying he felt no uncommon tenacity or zeal against the claims; but that he would be very willing to allow them in case it should be satisfactorily shown that they were not already compensated.

Mr. MERIWETHER and Mr. HOLLAND opposed the report, when a vote was passed against the claims—yeas 73, nays 28; when the House, on the motion of Mr. J. CLAY, postponed the further consideration of the subject till Monday next.

#### LOUISIANA TERRITORY.

Mr. NICHOLSON, from the managers appointed to confer with the managers on the part of the Senate, on the amendments depending between the House to the bill giving effect to the laws of the United States in the Louisiana Territory, made a report, recommending an agreement to several of the amendments proposed by the Senate with amendments.

[One amendment proposed to the amendment of the Senate limits the registry of vessels to citizens of the United States, or to persons resident five years in Louisiana.]

Mr. LUCAS suggested the repugnance of this provision to the treaty, which appeared to him to require the admission of all the inhabitants of Louisiana, at the period of cession, to the same privileges. This opinion was concisely supported by Mr. G. W. CAMPBELL, and repelled by Mr. NICHOLSON.

Mr. VARNUM moved an amendment, destroying the limitation. This produced a point of order, viz: whether an amendment to the report of a committee of conference was in order.

The SPEAKER being called upon to decide, stated that his recollection supplied him with no precedents. He would wish, therefore, before he decided the point, to avail himself of the recollection of any gentlemen who was possessed of apposite facts. No gentleman rising, the SPEAKER said his mind was not exempt from doubt and embarrassment; but a decision being required, he determined the amendment in order.

Mr. NICHOLSON observed that the point appeared to be a new one, and he was far from having himself formed a decided opinion respecting it. With great deference to the decision of the Chair, in order to have the point settled, he appealed to the House.

The appeal being stated, the House adjourned, without taking a vote upon it.

MONDAY, February 6.

Mr. NEWTON from the committee appointed, on the eighteenth ultimo, presented a bill to prohibit the exaction of bail upon certain suits brought in the District of Columbia; which was read twice, and committed to a Committee of the whole House on Monday next.

On motion, it was

*Resolved*, That the Committee of Claims be directed to consider whether any, and, if any, what, alterations are necessary to be made in the "act to make provision for persons that have been disabled by known wounds received in the service of the United States, during the Revolutionary war," passed March third, one thousand eight hundred and three; and that they report by bill or otherwise.

Mr. J. RANDOLPH, from the committee of conference on the disagreeing votes of the two Houses on the bill making appropriations for the Military Establishment, made a report.

The report recommends an agreement to all the amendments proposed by the Senate.

The House concurred in the report, excepting so far as regarded an amendment of the Senate appropriating \$4,500 for paying the postage of letters received or forwarded by the adjutant and inspector, and on their disagreement to which they insisted.

Mr. JACKSON observed, that, it would be found by a recurrence to the journals, that a resolution had been offered for discontinuing the offices of

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Commissioners of Loans, and referred to the Committee of Ways and Means, who had reported a disagreement thereto. To this report the House, after a full discussion, had disagreed—yeas 58, nays 55. It would also be found that, on a subsequent day, a resolution had been offered for the appointment of a select committee to bring in a bill for the discontinuance of those officers. This resolution appeared to have been rejected—yeas 52, nays 58. It followed from this statement that the first decision had been made when there were one hundred and thirteen members present, while the last was made when there were but one hundred and ten members present. The use, Mr. J. said, which he meant to make of these facts, was this: that inasmuch as the House, by their first disagreement, had negatived the disagreement of the Committee of Ways and Means to the original resolution, that resolution must be considered as still before the House; which was, that the Committee of Ways and Means be instructed to bring in a bill; whereas the last vote had only decided that a select committee should not be appointed to bring in a bill. He therefore gave notice that he should, on Thursday next, call up the original resolution.

#### LOUISIANA TERRITORY.

The House resumed the consideration of the unfinished business of Friday, being the report of the committee of conference on the amendments proposed by the Senate to the bill for carrying into effect the laws of the United States in Louisiana.

The SPEAKER stated, that when the House had adjourned, an amendment had been offered to the report, which he had declared in order, and that an appeal had been made from his decision.

At the request of a member, the SPEAKER stated several precedents, considered by him to be in point; and declared that on mature reflection he was of opinion that the amendment was in order: on which Mr. NICHOLSON observed, that he had made the appeal in consequence of the doubts suggested by the Speaker; as they were removed, he would withdraw his motion.

The amendment of Mr. VARNUM was then stated, and after considerable verbal variation, was agreed to, in such a form as substantially to allow all the inhabitants of Louisiana on the 30th of April, on taking an oath of allegiance to the United States, and citizens, to obtain register for their vessels.

The motion was supported by Messrs. VARNUM, LUCAS, G. W. CAMPBELL, BEDINGER, SMILIE, DENNIS, SLOAN, and HOLLAND; and opposed by Messrs. NICHOLSON, DANA, and HASTINGS.

By the former it was contended, that according to the third article of the Convention with France the inhabitants of the ceded territory were to be admitted into the Union as soon as possible, according to the principles of the Federal Constitution; and that in the meantime they were to be maintained in the enjoyment of their liberty, property, and religion; that vessels were property, and that consequently the undisturbed right to all

the immunities appurtenant to them attached to all the inhabitants at the period of cession; that the treaty admitted of no discrimination, embracing in its provisions all the inhabitants of the ceded territory. To allow one description of inhabitants, viz. those who had resided in the Territory for five years, according to the report of the committee of conference, to register their vessels, while those who had resided a shorter period were prohibited, would be in effect to invade the rights of the latter by giving the former exclusive privileges. The treaty being the supreme law of the land, it was insisted that Congress did not possess the right of violating it, and that should they make any distinction, in hostility to it, they would give the inhabitants of the ceded Territory just grounds of dissatisfaction, and might create a pretext on the part of the ceding Power to obstruct its execution. It was further observed that the distinction would sow the seeds of jealousy among the inhabitants of Louisiana, and disturb that tranquillity and content which it was the policy of the United States to cherish.

Mr. GREGG, during the course of the debate, declared himself so far friendly to the principle of the amendment, as to be in favor of extending the right to register vessels to citizens of the United States, Spanish subjects, and French citizens.

The opponents of the motion observed that the Constitution had authorized Congress to fix one uniform rule of naturalization, under which authority they had passed a law requiring five years' residence, previous to the naturalization of an alien; and that under the revenue laws of the United States none but citizens were permitted to register their vessels; to extend this right to all the inhabitants of Louisiana would be to give them an unjust and unconstitutional preference over the inhabitants of the United States who were not citizens. It was allowed that when the inhabitants of the ceded territory were admitted into the Union, they would be entitled to all the rights of citizens of the United States; but it was contended that until such admission, they must be viewed in the light of colonists, subject to the discretionary government of the United States. The proposed amendment was unjust, as it extended important privileges to the inhabitants of Louisiana denied by our laws to our own citizens. For, while a citizen could not naturalize a foreign bottom, this amendment would permit an inhabitant of Louisiana to naturalize his ships, which could be considered in no other light than foreign bottoms. It had been said that this provision ought to be extended to all the inhabitants of Louisiana because the treaty had so prescribed. To this it was replied, that were there no other reasons for rejecting the motion, this would be sufficient, as, if agreed to, it went to establish the principle that the President and Senate, in the exercise of the treaty-making power, could make as many foreigners citizens, as they pleased; and that on this ground alone, were there no other, it became Congress, and especially that House, to resist the adoption of a principle so fraught with danger.

To this last remark the advocates of the amendment answered that the treaty-making power was unquestionably under the Constitutional control of Congress, who might, or might not, carry a treaty into effect; but that, after having carried it generally into effect, as had been the case with the Louisiana Convention, it became the supreme law of the land, and a discretion ceased to exist in the Government to fulfil or violate it.

On agreeing to the amendment, the House divided—yeas 55, nays 48.

The remaining part of the report of the committee of conference was then agreed to without any division.

### TUESDAY, February 7.

Mr. NICHOLSON, from the committee to whom was committed, on the twenty-fifth of November last, the bill supplementary to the act, entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State," reported an amendatory bill; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. RANDOLPH, from the committee, presented a bill to amend the charter of Alexandria; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. EURIS, from the committee to whom was recommended the bill for reprinting the laws of the United States, and for the more extensive distribution of the same, reported an amendatory bill to provide for a more extensive distribution of the laws of the United States; which was read twice and committed to a Committee of the whole House to-morrow.

On motion made and seconded that the House do come to the following resolutions:

*Resolved*, That, whenever any number of citizens of the United States, not less than forty, residing within the District of Columbia, shall present a petition to the Circuit Court of the United States for the District of Columbia, praying that a public road may be laid out within the said District, the said Court, if they think the same reasonable and proper, may authorize the laying out of such road, in such manner, and of such width, as to do as little injury as possible to the owner or owners of the land through which the same shall pass, and so as to promote the public convenience: And the Court shall direct the person appointed to lay out the same, to make a return of his proceedings therein, and shall cause notice to be given to the proprietors of the lands, over which the same shall be laid out, to appear before the Court, on the return thereof, to show cause, if any, he, she, or they have, why the Court should not confirm the said return: And if any objection be made thereto, the Court, on hearing the parties, may either reject or confirm the same; and, in case of a rejection thereof, may proceed to take such order as to the course of such road, as they may think proper; *Provided*, That no such road shall be made to run through any yard, garden, or orchard.

*Resolved*, That the Court shall cause an accurate description of such road to be made and recorded in the office of the clerk of the county in which the said

road shall be established; the same shall thereafter be deemed and taken as a public road: And if any person shall alter, change, or obstruct the same, the person so altering, changing, or obstructing the same, shall be liable to a penalty, not exceeding fifty dollars, for every such offence.

*Resolved*, That the said Court shall have power to estimate the damages to which the proprietor or proprietors of the land, over which such road shall be established, is entitled, and the same shall be levied and paid to such proprietor or proprietors in the manner hereinafter provided.

*Resolved*, That the Court shall appoint an overseer or superintendent to make and keep in repair such road, and may allow such compensation therefor as they may think reasonable, and may, for incapacity, negligence, or other misconduct, remove such overseer or superintendent, and appoint another in his place, as often as may be necessary.

*Resolved*, That if such road shall be laid out within that part of the District which was formerly included within the limits of Prince George's county, in the State of Maryland, the whole expense of establishing and keeping in repair the same shall be assessed upon, and paid by, the City of Washington and that part of the county, without the limits of the city, which was included within the county aforesaid, in a proportion corresponding to the amount of assessable property within their respective limits. If such road be established in that part of the District formerly included within Montgomery county, in the State aforesaid, then the expenses aforesaid shall be defrayed in manner aforesaid by Georgetown, and that part of the county included within the limits of the last mentioned county, in proportion to the amount of the assessable property within their respective limits.

*Ordered*, That the said motion be referred to the Committee of the whole House to whom was committed, on the twenty-fifth ultimo, the bill to lay out and open a new public road in the county of Washington, in the District of Columbia.

Mr. VAN HORNE, from the committee appointed on the thirtieth ultimo, presented a bill granting further time for locating military land warrants, and for other purposes; which was read twice and committed to a Committee of the Whole on Friday next.

Mr. THOMAS, from the committee appointed on the eighteenth of October last, presented a bill further to alter and establish certain post roads, and for other purposes; which was read twice and committed to a Committee of the Whole on Thursday next.

The House took up Mr. LEIB's motion for the appointment of a committee to bring in a bill to prohibit the appointment of Judges of the United States to other offices, and agreed to it—yeas 67.

### PUBLIC LANDS.

On motion of Mr. NICHOLSON, the House resolved itself into a Committee of the Whole on the report of the committee appointed to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States.

The following resolution was before the Committee of the Whole on a former day:

"*Resolved*, That the Secretary of State, the Secreta-



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ry of the Treasury, and the Attorney General, for the time being, be authorized to receive propositions of compromise and settlement from the several companies, or persons claiming public lands in the territory of the United States lying south of the State of Tennessee and west of the State of Georgia; and, finally, to adjust and settle the same in such manner as, in their opinion, will conduce to the interest of the United States."

An amendment, limiting the power of the Commissioners to the limits prescribed by the convention between the United States and Georgia, had been adopted in Committee of the Whole.

No records being kept of the proceedings in Committee of the Whole, a question arose how far the Committee had proceeded on the subject heretofore?

Mr. VARNUM suggested that the resolution, as amended, had been agreed to. This being denied by other gentlemen, the Committee proceeded to debate the resolution.

Mr. GREGG made a few observations against the resolution, and Messrs. NICHOLSON and JACKSON replied; when

Mr. ELLIOT observed that he was apprehensive the debate was perfectly out of order. Upon reflection, he was convinced, beyond a doubt, that the resolution, as amended, had already been adopted in Committee of the Whole.

This statement being confirmed by Mr. VARNUM and Mr. TENNEY,

The CHAIRMAN decided that it was not in order further to debate the merits of the resolution.

Mr. EUSTIS moved that the Committee rise and report the resolution to the House.

Mr. NICHOLSON, although in favor of the resolution, moved to reconsider it, in order to open the debate *de novo*.

Mr. ELLIOT inquired of the CHAIRMAN whether the motion to reconsider superseded the motion to rise and report?

The CHAIRMAN decided that it did not.

The Committee then rose and reported the resolution, as amended; when

Mr. HUGER moved that the further consideration of the resolution be postponed for a fortnight, in order to introduce an amendment placing the Virginia and South Carolina Yazoo Companies on the same footing with other claimants.

This motion was withdrawn on the suggestion of

Mr. J. RANDOLPH, who moved to recommit the resolution to a Committee of the Whole. After considerable debate, the motion was lost—yeas 50, nays 54.

The question recurring on the postponement, was, likewise, after debate, lost.

Mr. BRYAN moved to refer the subject to a select committee; lost—yeas 37, nays 59.

When the House adjourned without deciding on the resolution reported by the Committee.

WEDNESDAY, February 8.

Mr. J. C. SMITH, from the Committee of Claims, presented a bill for the relief of certain military pensioners in the State of South Carolina; which

was read twice and committed to a Committee of the Whole House on Friday next.

A representation of Duncan McFarland, of the State of North Carolina, accompanied with sundry documents, was presented to the House, complaining of an undue election of SAMUEL D. PURVIANCE, the member returned to serve in this House for the district composed of the counties of Anson, Cumberland, Richmond, Robinson, Moore, and Montgomery, in the said State. The representation, with the papers accompanying it, was referred to the Committee of Elections.

The House resumed the consideration of the resolutions reported yesterday from the Committee of the Whole, to which was referred the report of the committee who were directed "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made the second of December last; and, after some debate thereon, adjourned.

THURSDAY, February 9.

A memorial and petition of sundry citizens of Baltimore, in the State of Maryland, and mariners of the United States, in the said city, was presented to the House and read, praying that a law may be passed to authorize the admission into the marine hospitals of the United States of seamen paying, and subject to payment of hospital money, at all times, and in all cases of disease, under such provisions and regulations as to the wisdom of Congress shall seem meet.—Referred to the Committee of Commerce and Manufactures, to report thereon by bill or bills, or otherwise.

A message from the Senate informed the House that the Senate recede from their first amendment to the bill, entitled "An act giving effect to the laws of the United States within the territories ceded to the United States by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, and for other purposes," so far as to agree to the modification and amendment thereof proposed by the joint committee of conference; they disagree to the further amendment proposed by this House to so much of the said amendments as proposes to add a proviso to the end of the first section proposed by the Senate; and they do adhere to their said first amendment, as above amended. The Senate also so far recede from their thirteenth amendment to the said bill as to agree to the amendment and modification thereof proposed by the joint committee of conference.

PUBLIC LANDS.

The House resumed the consideration of the resolution reported on the seventh instant, from the Committee of the whole House to whom was referred the report, in part, of the committee who were directed "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made the second of December last; whereupon, the first resolution being again read, in the following words, to wit:

*Resolved*, That the Secretary of State, the Secretary

of the Treasury, and the Attorney General, for the time being, be authorized to receive propositions of compromise and settlement from the several companies or persons claiming public lands in the territory of the United States lying south of Tennessee and west of the State of Georgia, and finally to adjust and settle the same in such manner as, in their opinion, will conduce to the interests of the United States: *Provided*, That, in such settlement, the said Commissioners shall not exceed the limits prescribed by the convention with the State of Georgia:

A motion was made and seconded to amend the second resolution, by striking out therefrom the word "*finally*," next before the words "to adjust and settle the same," and by adding to the end of the resolution the following words: "and that the said Commissioners report to this House such settlement as they may make on this subject; which, when confirmed by Congress, shall be binding on all the claimants under such companies, and on the United States."

And on the question that the House do agree to the said amendment, it passed in the negative.

The SPEAKER then stated the question, that the House do agree to the said first resolution, as reported from the Committee of the whole House; and further debate arising thereon, the House adjourned.

FRIDAY, February 10.

Mr. THOMAS laid on the table the following resolution:

*Resolved*, That a committee be appointed to join with such committee as the Senate may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same.

*Ordered* That Mr. BALDWIN be appointed of the Committee of Elections, in the room of Mr. GODDARD, who hath obtained leave of absence for the remainder of the session.

#### PUBLIC LANDS.

The House resumed the consideration of the resolutions reported on the seventh instant from the Committee of the Whole, to whom was referred the report, in part, of the committee who were directed "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made in December last; and after some farther debate thereon, the question was taken that the House do agree to the first resolution, in the words following, to wit:

*Resolved*, That the Secretary of State, the Secretary of the Treasury, and the Attorney General, for the time being, be authorized to receive propositions of compromise and settlement from the several companies or persons claiming public lands in the territory of the United States lying south of the State of Tennessee and west of the State of Georgia; and finally to adjust and settle the same in such manner as, in their opinion, will conduce to the interests of the United States: *Provided*, That, in such settlement, the said Commissioners shall not exceed the limits prescribed by the convention with the State of Georgia.

On this resolution a long and interesting debate ensued on the circumstances attending the Yazoo

speculation, and the consequences likely to ensue from the entire disallowance or compromise of the claims of individuals for compensation for lands purchased under the several acts of Georgia and ceded to the United States; when, about six o'clock, the question was taken by yeas and nays on the resolution, and carried in the affirmative—yeas 62, nays 56, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Simeon Baldwin, Silas Betton, Phaniel Bishop, John Boyle, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, John Fowler, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, David Hough, Benjamin Hugor, Samuel Hunt, John G. Jackson, William Kennedy, Joseph Lewis, jun., Thomas Lewis, Henry W. Livingston, Thomas Lowndes, Matthew Lyon, William McCreery, Nahum Mitchell, Jeremiah Morrow, James Mott, Joseph H. Nicholson, Thomas Plater, Joshua Sands, Tompson J. Skinner, John Cotton Smith, John Smith of New York, Henry Southard, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, John Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, and Thomas Wynns.

NAYS—Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Frederick Conrad, John B. Earle, John W. Eppes, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Joseph Heister, William Hoge, James Holland, David Holmes, Michael Leib, John B. C. Lucas, Andrew McCord, David Meriwether, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, John Whitehill, Richard Winn, and Joseph Winston.

After motions to adjourn and postpone the subject were made and lost, and the proposition of an amendment of Mr. J. RANDOLPH so to modify the resolution as to inhibit all compensation for lands purchased under the act of Georgia of 1795 was declared not in order, the following resolution was carried:

*Resolved*, That the time limited by law for filing claims in the office of the Secretary of State ought to be extended to the first day of May next.

A motion was then made to refer the two resolutions to a select committee to bring in a bill, which was superseded by an adjournment until Monday.

MONDAY, February 13.

Mr. JOHN COTTON SMITH, from the Committee of Claims, presented a bill in addition to "An act

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to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war;" which was read twice, and committed to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the whole House on the bill for the relief of certain military pensioners in the State of South Carolina. The bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resumed the consideration of the question depending on Friday last, at the time of adjournment, that the resolutions agreed to the same day by this House, on a report, in part, made on the second of December last, by the committee who were directed "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," be referred to a committee, with instruction to prepare and bring in a bill, or bills, pursuant thereto: Whereupon, the said question was taken, and resolved in the affirmative.

*Ordered*, That Messrs. NICHOLSON, MORROW, DWIGHT, BROWN, and BRYAN, be the said committee.

The House agreed to the modification of the amendments to the bill for carrying into effect the laws of the United States in Louisiana, as agreed to by the Senate.

Previously to the vote of agreement, Mr. NICHOLSON stated that by such agreement, all provision for registering vessels, whether owned by citizens of the United States or inhabitants of Louisiana, would be waived; and that that subject was before the Senate in another shape. The bill is consequently passed.

Mr. NICHOLSON presented a memorial signed by Thomas Tingey, Robert Brent, Thomas Herty, and Augustus B. Woodward, in behalf of themselves and others, subscribers and members of the association in the City of Washington, for the erection of a theatre, praying for an act of incorporation.

On the reference of this memorial the House divided—yeas 44, nays 51.

Mr. NICHOLSON made a report on the petition of Matthew Phelps, and others, styling themselves military adventurers, concluding with a resolution that the petitioners have leave to withdraw their petition.

Mr. LYON opposed, and Mr. NICHOLSON supported the resolution, which was agreed to by the House.

#### ALEXANDRIA, VA.

The House went into Committee of the Whole, on the bill to amend the charter of Alexandria.

An unsuccessful motion having been made to waive the ordinary reading of the bill, it was in part read, when Mr. LEIB moved that the Committee should rise, and ask leave to sit again.

He observed that as the bill had not been printed, it was difficult to understand it; from that part which he did understand, he was persuaded cer-

tain principles were sanctioned by it which it did not become Congress to countenance. Certain qualifications of electors as well as elected were required, which were improper. [Mr. L. particularly alluded to the requisition of freehold estate.]

Mr. EPES stated his understanding, from a respectable inhabitant of Alexandria, that the bill differed materially from the propositions agreed to by the citizens of that town.

After some remarks from Messrs. J. LEWIS, FINDLEY, SMILIE, and SOUTHARD, the rising of the Committee was agreed to.

#### PUBLIC ROADS.

On motion of Mr. JACKSON, the House took up the bill making provision for the application of the money heretofore appropriated to the laying out and making public roads leading from the navigable waters emptying into the Atlantic to the Ohio river.

Mr. J. CLAY moved to postpone the bill to the 1st Monday of December. Lost—yeas 41, nays 40.

Mr. R. GRISWOLD moved so to amend the first section, as to vest the President with a general power to appoint three Commissioners to designate a route, to be reported to Congress, for their ultimate decision; which motion, after a short conversation, was agreed to by a considerable majority.

Mr. LYON offered a motion for empowering the President to designate the routes. Lost, without a division.

The Committee rose and reported the bill with several amendments, in which the House concurred, and ordered the bill to a third reading on Wednesday.

#### SAMUEL CORP.

The House resolved itself into a Committee of the Whole, on the bill for the relief of Samuel Corp. The bill was reported to the House with an amendment; which was twice read, and agreed to by the House. On the question that the said bill, with the amendment, be engrossed for a third reading, it was resolved in the affirmative—yeas 63, nays 40, as follows:

YEAS—Nathaniel Alexander, Isaac Anderson, Simon Baldwin, David Bard, Silas Betton, Phanuel Bishop, Adam Boyd, John Campbell, William Chamberlin, Clifton Claggett, Thomas Claiborne, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, John B. Earle, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, James Gillespie, Gaylord Griswold, Roger Griswold, John A. Hanna, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, William McCreery, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, jun., John Patterson, Oliver Phelps, Thomas Platter, Samuel D. Purviance, Erastus Root, Joshua Sands, James Sloan, Henry Southard, Richard Stanford, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Matthew Walton, and Lemuel Williams.

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**NAVS**—George Michael Bedinger, William Blackledge, Robert Brown, William Butler, Levi Casey, Martin Chittenden, Matthew Clay, Frederick Conrad, William Dickson, John W. Eppes, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, William Hoge, James Holland, William Kennedy, Andrew McCord, David Meriwether, Thomas Moore, James Mott, Joseph H. Nicholson, Gideon Olin, Beriah Palmer Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of Virginia, Abram Trigg, John Trigg, Isaac Van Horne, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

*Ordered*, That the said bill be read the third time to-morrow.

#### MARINE CORPS.

The House went into Committee of the Whole, on the bill for the reduction of the Marine Corps.

The bill reduces the officers of the corps to one captain and twelve lieutenants, and empowers the President, at any future period, when in his opinion it may be necessary, to augment the number of officers so as not to exceed those at present authorized by law.

Mr. EPPES moved to strike out from the word next in the third line of the first section to the end of the section, and insert:

"The whole of the officers of the Marine Corps, except such as are at present in actual service in the Mediterranean, shall be, and the same are hereby, discharged from the service of the United States: *Provided, however*, That if the President of the United States shall deem it expedient to employ a greater naval force than is now in actual service, he shall be, and hereby is, authorized to appoint such additional officers as may be necessary for the additional vessels called into service."

Mr. LEIB said, it might be proper to state that the bill on the table was the same with that passed by the House the last session, and arrested by the Senate. It was then alleged to be improper to pass it, as the state of the country as to its foreign relations, was such as might require the aid of the whole military force in existence. That reason had ceased, and the bill was consequently reported to the House. The committee, who reported it, were of opinion that it was not the intention of Congress to reduce the corps entirely; they had supposed that the reduction contemplated by the bill might be made, and a sufficient number of marines still retained in service. They had considered a lieutenant colonel commandant unnecessary, as it would be found, by consulting the report of the Secretary of the Navy lately laid before the House, that not more than 112 marines were attached to this place; they had supposed a captain fully competent to this command, which embraced as large a number as was stationed in any other part of the United States. The bill contemplated the retaining one captain, to be stationed here, and twelve lieutenants, three of which were to be attached to the command of Norfolk, Philadelphia, and New York. At Philadelphia there was at present one captain with the command of only fifteen marines. There were like-

wise several lieutenants and one captain in the Mediterranean. According to the contemplation of the bill, there would be one lieutenant at Philadelphia, another at Norfolk, and another at New York; and for further service in the Mediterranean, leaving five at this place, which were considered as sufficient to relieve a returning squadron. It was, therefore, considered that twelve lieutenants would be amply sufficient, allowing the establishment of a Marine Corps to be necessary. Since the bill had been reported, a statement of the expenses of the corps had been laid before the House by the Secretary of the Navy. On looking at that statement, he was inclined to the opinion of the gentleman from Virginia, that the whole establishment ought to be done away. It would appear from it, that it was the most expensive military establishment existing in any country. It was so far beyond the ordinary expenses of the military, that, in his opinion, the Committee ought not to hesitate a moment about either reducing it, or incorporating it as part of the Army. The lieutenant colonel commandant received more than \$3,000 a year. This extravagant sum, paid for the support of this officer, was a sufficient reason of itself for reducing that office. It appeared that he charged the United States for pay and subsistence, \$1,722; for house-rent, under the denomination of quarters, \$500; for fire-wood, \$200; for forage, (the Committee will recollect that he is a marine officer,) \$200. It also appeared that subaltern officers, charged exorbitant sums for fire-wood and forage; how forage could be used on board of ships he was yet to learn. It further appears that the colonel commandant had passing through his hands the annual sum of between sixty and seventy thousand dollars; and that, in his accounts, there remained to be accounted for a sum of near \$13,000; that, for the present year, the unaccounted sum was \$5,700; and, for the preceding years, \$7,200—making in the aggregate, \$12,924.

Considering the expense of this corps extravagant, and that if it were necessary it might be placed on a different footing, and that the marines required might be draughted from the regular military establishment, Mr. L. said, he should heartily give his assent to the motion of the gentleman from Virginia.

Mr. EUSTIS inquired how, if the proposition of the gentleman from Virginia should be adopted, those officers at present in the Mediterranean were to be relieved? It must be well known to the gentleman that one squadron went out before the other returned. As to the idea of the gentleman from Pennsylvania, to take the requisite number of marines from the Army, it was not practicable. The ordinary soldiers were not enlisted for this kind of service; they were not qualified to discharge it. There was another and a stronger objection; there were not men in the Army to be found, who could be spared. For these reasons, he was of opinion that, if the bill were to pass, it would be better to keep it in its original shape.

Mr. NICHOLSON said, he was friendly to the bill

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for reducing the Marine Corps, but did not perceive the propriety of adopting the amendment proposed by the gentleman from Virginia. He considered some few marine officers, under the direction of the President, to be necessary. If all the officers should be disbanded, there would remain privates, under the command of no officers, unless of the Secretary of the Navy. While we kept up our naval establishment in the Mediterranean, there appeared to him a necessity of having five or six officers in readiness to relieve those engaged in the service, for the present force must be relieved before it can return. For these reasons, he should vote against the amendment.

Mr. LYON expressed a similar sentiment.

Mr. EPPES rose to give the gentleman from Massachusetts (Mr. EUSTIS) the explanation he asked. If the gentleman, were friendly to the principle of the amendment, it would be easy to obviate the difficulty he had started. In making the amendment, Mr. E. said he had been guided by the conviction that the Marine Corps, whatever duty they might have performed, had not rendered services equivalent to the expenses incurred in their establishment. The corps had been established in 1798, since which period they had cost the United States \$353,573. There appeared to have been advanced, in 1798, \$7,200; in 1799, \$37,000; in 1800, \$84,000; in 1801, \$85,000; and in 1802, to the 30th June, \$38,300—making in the aggregate \$252,834. This sum appears to have been actually advanced to the lieutenant colonel commandant, before he had filed a single account or voucher, and on his individual responsibility. Any one who will examine the accounts will perceive that, throughout the whole list of expenses, a mode of adjustment is adopted which is calculated to prevent a fair adjustment of the accounts. It is impossible to ascertain what a particular officer has received, and to what he is entitled. I have made a statement, said Mr. E., as far as I have been able, of the sums received by the commandant.

[Mr. EPPES here specified the several items of charge made by the commandant.]

From which it appeared, he said, that he had received \$9,170. It also appeared that, during part of the period covered by these accounts, he had received \$480 for quarters. From this statement it followed that the commandant received within \$400 as much as Brigadier General Wilkinson, whose salary was limited to \$2,700, while Col. Burrows received \$2,398.

He observed that he had not had an opportunity of investigating the other accounts in the statement; but he had seen enough of them to convince him that the corps ought to be reduced. He asked whether it were the interest of the United States to support this establishment at an enormous expense, when the adjustment of our differences in the Mediterranean had nearly rendered their services unnecessary in that sea? It was not, however, his intention to dwell on the subject. He was fully convinced the corps might be dispensed with, without any injury to the United States. For this purpose a law had passed

Congress, two years ago, and it was well understood that the continuance of the officers in the service arose solely from a mistake in wording it.

Mr. VARNUM said, if he understood the effect of the amendment, it went to reduce the officers and not the men; it would, therefore, leave the men without any person to command them. This, he apprehended, would produce a state of chaos.

The question was then put on Mr. EPPES's amendment; which was negatived—ayes 45, noes 50.

On motion of Mr. LEIB, the period from which the reduction is to take place was fixed to be the first of March.

When the Committee rose and reported the bill, which the House immediately took up and ordered to a third reading to-morrow—ayes 68.

TUESDAY, February 14.

Mr. ALSTON, one of the members for the State of North Carolina, presented to the House a copy of an act passed on the twenty-second of December last, by the Legislature of the said State, entitled "An act to authorize the State of Tennessee to perfect titles to lands reserved to this State by the cession act;" which was read and referred to Mr. ALSTON, Mr. HUGER, and Mr. RHEA, of Tennessee, with leave to report thereon by bill, or bills, or otherwise.

An engrossed bill for the relief of certain military pensioners in the State of South Carolina was read the third time, and passed.

An engrossed bill to reduce the Marine Corps of the United States was read the third time; and on the question that the same do pass, it was resolved in the affirmative—yeas 73, nays 40, as follows:

YEAS—Nathaniel Alexander, Isaac Anderson, John Archer, George Michael Bedinger, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, William Dickson, John B. Earle, James Elliot, Ebenezer Elmer, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Samuel Hammond, John A. Hanna, Joseph Heister, William Hoge, James Holland, David Holmes, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Joseph H. Nicholson, Gideon Olin, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of New York, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, John Whitehill, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

YEAS—Simeon Baldwin, Silas Betton, Walter Bowie, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Peter

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Early, Gaylord Griswold, Roger Griswold, Wade Hampton, Seth Hastings, William Helms, David Hough, Benjamin Huger, Samuel Hunt, Thos. Lewis, Henry W. Livingston, Thomas Lowndes, William McCreery, Nahum Mitchell, Samuel L. Mitchell, James Mott, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, John Smith of Virginia, William Stedman, James Stephenson, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, and Lemuel Williams.

An engrossed bill for the relief of Samuel Corp was read the third time, and passed.

*Resolved*, That a committee be appointed to join with such committee as the Senate may appoint on their part, to consider and report what business is necessary to be done by Congress in the present session, and when it may be expedient to close the same.

*Ordered*, That Mr. THOMAS, Mr. JOHN RANDOLPH, Mr. JOHN COTTON SMITH, Mr. SAMUEL L. MITCHILL, and Mr. TENNEY, be appointed of the said committee, on the part of this House.

Mr. RODNEY observed that, a subject had some time been before Congress, in which the commercial world was considerably interested; he alluded to fixing the standard of weights and measures. Under an impression that this was a fit time to resume its consideration, he moved a resolution to instruct the Committee of Commerce and Manufactures to inquire into the expediency of fixing a standard of weights and measures.

Mr. LEIB suggested the propriety of referring the subject to a select committee, in which idea Mr. RODNEY acquiesced.

Mr. MITCHILL, after assigning a number of reasons which led him to be of opinion that Congress would not, during the present session, be enabled to arrive at any conclusive measures on the subject, moved to postpone the resolution until to-morrow.

In which, Mr. RODNEY acquiescing, the motion was ordered to lie until to-morrow.

#### IMPORTATION OF SLAVES.

The following motion, offered by Mr. BARD, was taken into consideration in Committee of the Whole:

*"Resolved*, That a tax of ten dollars be imposed on every slave imported into any part of the United States."

On motion of Mr. JACKSON, it was agreed to add after the words United States, "or their territories."

Mr. LOWNDES.—I will trespass but a very short time upon the attention of the House at this stage of the business, but as I have objections to the resolution, it may be proper that I should state them now. I will do so briefly, reserving to myself the privilege of giving my opinion more at length when the bill is before the House, should the resolution be adopted, and a bill brought in. I am sorry, Mr. Speaker, to find that the conduct of the Legislature of the State of South Carolina, in repealing its law prohibitory of the importation of negroes, has excited so much dissatisfaction and resentment as I find it has done with the far greater

part of this House. If gentlemen will take a dispassionate review of the circumstances under which this repeal was made, I think this dissatisfaction and resentment will be removed, and I should indulge the hope that this contemplated tax will not be imposed. Antecedent to the adoption of the Constitution under which we now act, the Legislature of South Carolina passed an act prohibiting the importation of negroes from Africa, sanctioned by severe penalties. I speak from recollection, but I believe not less than the forfeiture of the negro and a hundred pounds sterling for each brought into the State, and this act has been continued in force until it was repealed by the Legislature at its last session. This long interdiction, I think, manifests, on the part of the Government of the State, a disinclination to the trade, and had we received the aid from Congress which was necessary to enforce the act, the repeal which is now complained of would never, in my opinion, have taken place. But, Mr. Speaker, the State was unable to enforce its laws. It had given up to the Government of the United States all revenues derived from foreign imposts, and was, therefore, necessarily divested of the means of preventing the introduction into the country from sea of whatever the excitements to gain might allure it into. The geographical situation of our country is not unknown. With navigable rivers running into the heart of it, it was impossible, with our means, to prevent our Eastern brethren, who, in some parts of the Union, in defiance of the authority of the General Government, have been engaged in this trade, from introducing them into the country. The law was completely evaded, and, for the last year or two, Africans were introduced into the country in numbers little short, I believe, of what they would have been had the trade been a legal one. Under these circumstances, sir, it appears to me to have been the duty of the Legislature to repeal the law, and remove from the eyes of the people the spectacle of its authority being daily violated.

I beg, sir, that, from what I have said, it may not be inferred that I am friendly to a continuation of the slave trade. So far from it that, without adverting to considerations by which I know other gentlemen are influenced, I think the period has passed when the interests of the country required, and her policy dictated, that an end should be put to it. I wish the time had arrived when Congress could legislate conclusively upon the subject. I should then have the satisfaction of uniting with the gentleman from Pennsylvania, who moved the resolution. Whenever it does arrive, should I then have a seat in this House, I will assure him I will cordially support him in obtaining his object. But, Mr. Speaker, I cannot vote for this resolution, because I am sure it is not calculated to promote the object which it has in view. I am convinced that the tax of ten dollars will not prevent the introduction into the country of a single slave. Gentlemen must be sensible of the truth of this observation, when they are informed, and the fact is too notorious even to be doubted, that, notwithstanding the expense

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and risk which attend an illicit trade, they have been introduced in very great numbers. Was I friendly to the trade, I should, without any hesitation, embrace the proposition contained in the resolution, and I should consider it a point gained of no small importance, that the Legislature of the General Government had given a sanction to it—for I can regard the Government deriving a revenue from it in no other light than a sanction. The gentleman from Pennsylvania, and those who think with him, ought, above all others, to deprecate the passing of this resolution. It appears to me to be directly calculated to defeat their own object—to give to what they wish to discountenance a legislative sanction; and, further, an interest to the Government in permitting this trade after the period when it might constitutionally terminate it. When I say that I am myself unfriendly to it, I do not wish, Mr. Speaker, to be misunderstood; I do not mean to convey the idea that the people of the Southern States are universally opposed to it—I know the fact to be otherwise. Many of the people in the Southern States feel an interest in it, and will yield it with reluctance. Their interest will be strengthened by the immense accession of territory to the United States by the cession of Louisiana. Gentlemen cannot foresee what the situation of the country will be when the period arrives when Congress may constitutionally interdict the trade. The finances of the country, and the exigencies of the times, may be such as to prevent the Government, from dispensing with any part of its revenue. The tax, if imposed, will undoubtedly produce a revenue, and in proportion to the amount of this revenue will be the interest of the Government in the trade. But, Mr. Speaker, my greatest objection to this tax is, that it will fall exclusively upon the agriculture of the State of which I am one of the Representatives. However odious it may be to some gentlemen, and however desirous they may be of discountenancing it, I think it must be evident that this tax will not effect their object; that it will not be a discouragement to the trade, nor will the introduction of a single African into the country be prevented. The only result will be, that it will produce a revenue to the Government. I trust that no gentleman is desirous of establishing this tax with a view to revenue. The State of South Carolina contributes as largely to the revenue of the United States, for its population and wealth, as any State in the Union. To impose a tax falling exclusively on her agriculture would be the height of injustice, and I hope that the Representatives of the landed interest of the nation will resist every measure, however general in its appearance, a tendency of which is to lay a partial and unequal tax on agriculture.

Mr. BEDINGER observed, that the gentleman from South Carolina had so fully expressed the opinions he entertained, that he should say but little. Everybody who knew his opinions on slavery might think strange of the vote he should give against the resolution. There was not a member on the floor more inimical to slavery

than he was, still he was of opinion that the effect of the present resolution, if adopted, would be injurious. He should, therefore vote against it.

Mr. BARD.—It was my wish that the question before the Committee might be taken without discussion, but, as the gentleman from South Carolina has preferred a different course, I beg permission to offer a few thoughts on the subject.

As to the constitutionality of the measure, I believe there can be but one opinion. It is pretty well understood that the union of the States was a matter of compromise; and, indeed, the language of the Constitution suggests the idea that the Convention which formed that instrument, must have had the emancipation of slaves under their consideration. They had achieved liberty, and their object was to transmit it to posterity; and we cannot permit ourselves to suppose that men whose minds were so enriched with liberal sentiments, and who had so often reiterated the sacred truth, "That all men were born equally free"—I say we cannot suppose that they would consider slavery to be a subject unworthy their discussion; and it appears to be equally suggested that the Convention were not all agreed to an absolute prohibition of the slave trade, but yielded so far that a duty or tax might be imposed on the future importation of that description of people. The question, then, is only on the policy of laying this tax; and it appears that there can be no doubt on this question.

The slave trade, in terms, makes African men mere articles of traffic, and of course they must be as much a subject of commercial regulation as any other species of foreign manufactures. The tax will be high or low, in proportion to the price the article will bring. And if my information is correct, a slave will bring four hundred dollars; the tax, then, is but two and a half per cent., which is many degrees lower than any other imported article pays. The tax is a general one; no State in the Union is exempted; it will operate wherever its object can be found. It may be that some States will pay more and some less, but it will be at the option of any State how much, or whether it will pay any of this tax; for it will be just as the State shall please to deal in this article of commerce. And, on the score of uniformity, no objection can lie against the tax—the slaves have already been the object of direct taxation, and Vermont paid none of that tax, because she had none of that kind of taxable property; and yet I never heard it complained of as not being uniform. It is said the tax is impolitic, because it will not prevent the importation of Africans into our country. This may, indeed, be the case; and I believe it will be but a feeble check to the trade if not aided by nobler motives. However, if any of the States engage in the trade, the tax will have two effects—it will add something to the revenue, and it will show to the world that the General Government are opposed to slavery, and willing to improve their power, as far as it will go, for preventing it. Both these ends are valuable; but I deem the latter to be the more important one, for we owe it indispensably to ourselves and to the world, whose



eyes are on our Government, to maintain its republican character. Everything compared to a good name is "trash;" and it rests with us whether we will preserve or destroy it. If our Government will respect power only, and justify whatever it may be able to do, then will our hands be against every man, and every man's hand against us; and Americans will become the scorn of mankind.

On what principles, whether moral or political, I do not know; but so it was, that about the close of the Revolutionary war, the Quaker society in South Carolina brought the slave trade, or perhaps slavery itself, under their serious consideration, and declared it to be unjustifiable. They afterwards, in 1796 or 1797, addressed Congress on the subject; but failed in their object, and for no other reason, probably, than that the powers of Congress did not reach it.

Some years ago the States, even those in which slaves abound most, loudly exclaimed against the further importation of that class of people, and by their laws prohibited their traffic. Either they did this on moral principles or considerations of policy. In 1802, Congress stretched out her arm to aid the State Governments against the evil they so much deprecated, and passed a law inflicting fines and forfeitures on every man who should be found importing slaves into the United States. What might have been the issue of these combined exertions, or how far they might ultimately secure their end, I cannot tell; but, as to South Carolina, they have become nugatory; by repealing her prohibitory law she has rejected the interference of Congress. Why that State has done so; why she has abandoned a measure which, the other day, was considered so much her interest, I know not, nor is it for me to offer any conjectures. South Carolina is a sovereign State, and has a right to consult and pursue her own interest, so far as the general good will permit; for hitherto she may come, and no further. Every State has a right to import slaves if it so chooses, and Congress has a right to tax all the slaves imported; but when the powers of a State, though Constitutional, operate against the general interest, then the exercise of those powers are politically wrong, because it is contrary to the fundamental principle of society, the public good, which is paramount to law and the Constitution itself. And, in my opinion, the importation of slaves is hostile to the United States: to import slaves is to import enemies into our country; it is to import men who must be our natural enemies, if such there can be. Their circumstances, their barbarism, their reflections, their hopes and fears, render them an enemy of the worst description.

Gentlemen tell us, though I can hardly think them serious, that the people of this description can never systematize a rebellion. I will not mention facts, it is sufficient to say that experience speaks a different language—the rigor of the laws, and the impatience of the slaves, will mutually increase each other, until the artifices of the one are exhausted, and until, on the other hand, human nature sinks under its wrongs, or obtains the restoration of its rights. The negroes

are in every family; they are waiting on every table; they are present on numerous occasions when the conversation turns on political subjects, and cannot fail to catch ideas that will excite discontentment with their condition. And what is to be expected from the people of this description, but that they will some day, and especially if their importation continues, produce a disturbance that may not be easily quieted, or kindle a flame that may not be readily extinguished. If ten thousand of them have been, as it is said, smuggled into the United States, in the course of a year or two past; and if ten or fifteen thousand of them may now be legally brought annually into our country, for four years to come, it will hardly be imagined that the general interest will be unaffected by such an importation.

If they are ignorant, they are, however, susceptible of instruction, and capable of becoming proficient in the art of war. To be convinced of this we have only to look at St. Domingo.

There the negroes felt their wrongs, and have avenged them; they learned the rights of man, and asserted them; they have wrested the power from their oppressors, and have become masters of the island. If they are unarmed, they may be armed; European Powers have armed the Indians against us, and why may they not arm the negroes? And if they are already as numerous as is consistent with safety, it must be extreme impolicy to import more; it is to accelerate an event which we cannot contemplate without pain.

Slavery is not only impolitic as it affects the strength and tranquillity of the United States, but as it prevents their wealth, which can only grow out of society where the arts, sciences, and manufactures, are cultivated and improved. But, sir, I despise to argue on the advantages or disadvantages of what is contrary to the genius of our Government; what is radically unjust, and violates the principles of morality.

The Americans boast of being the most enlightened people in the world—they certainly enjoy the greatest share of liberty, and understand the principles of rational government more generally than any other nation on earth. They have denounced tyranny and oppression; they have declared their country to be an asylum for the oppressed of all nations. But will foreigners concede this high character to us, when they examine our census and find that we hold a million of men in the most degraded slavery? This is nearly one-fifth of our whole population; in some of the States nearly the half. Here, then, is a fact that must have weight to sink our national character, in spite of volumes to support it. It is a fact, from which foreigners will infer, that we possess the principles of tyranny, but want the power to carry them into operation, except against the untutored and defenceless African. If, then, we hold a consistency of national character in any estimation, we will give every discouragement in our power to the importation of slaves. It is in this view that the tax contemplated by the resolution is principally to be considered, and only incidentally as matter of revenue.

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But, sir, I presume, on permission, to say, that the importation of slaves is in direct contradiction to the principles of morality. On these principles the Constitution of the United States is founded; on them every law ought to be founded; otherwise legislation will progress in the dark, and every step deviate still more from its true direction. "Do unto others as you would that others should do unto you," is a law paramount to all human institutions; it is the fundamental law of human nature, of Christianity, and of every rational Government; it is a law which we wish all men to respect in their dealings with us; and it is a law which every man confesses he ought to observe, and, in spite of all the sophistry of depravity, must acknowledge himself subject to its cognizance. I need not, nor will I, ask if we have observed this law as to the Africans; for it must be obvious to every man that it is not possible to violate it in a greater degree than we have done towards that unfortunate and wretched people.

But, notwithstanding all the information our country enjoys, numbers in the Eastern States have been embarked, for some years past, in the cruel traffic of slaves, and smuggling them into other States. And it is to be feared that many of them are, at this moment, preparing means to stimulate the barbarous tribes of Africa to war against each other; mutually to torture every human feeling; to violate the strongest ties of nature and affection; to tear the husband from the wife, and the wife from the husband; the parent from the child, and the child from the parent; and are coolly and deliberately forging irons, that they may have the infernal pleasure of coolly and deliberately rivetting them on the unfortunate men, women, and children, who may fall into their hands. Such an enterprise, such a traffic as this, must affect our national character; it is self-evidently wrong, and, at first view, must receive the disapprobation of every disinterested man. The genius of our Constitution, the mildness of its administration, and the prevailing sentiment of the nation, must sanction every measure to discourage the further admission of a people whose numbers already excite most painful sensations. In a word, the tax is Constitutional; no article can bear a tax better than the one here proposed; it is an uniform tax, and justified on the ground of sound policy; and so far as it tends to discourage the slave-trade, it is supported by every principle of virtue. If I have uttered a word offensive to any member of the House, it will not be attributable to design, but to an honest solicitude to promote the honor and interest of our country.

Mr. BEDINGER said he differed widely, as to the effects of this motion, from the gentleman who had just spoken. He was as hostile to the slave-trade as any man in the Union; and if he could believe that the imposition of a tax of ten dollars upon every imported negro would check the importation, he would vote for it. But he believed the resolution would have a different effect, and would rather sanction than discourage the trade.

In point of revenue, the tax was of little consideration. Suppose a thousand slaves to be imported monthly, the amount of the tax would be about \$100,000 a year; which, in four years, at the expiration of which Congress would have power to prohibit the trade altogether, would amount to \$400,000—a sum too trifling to be put into competition with the adoption of any measure that went to sanction such a trade.

Mr. MACON (the Speaker) believed the resolution was not founded in good policy. All the declamation and appeal to the passions urged in its behalf appeared to him unnecessary and irrelevant. The avowed object of the proposed tax was to show the hostility of Congress to the principle of importing slaves. How would this opposition of Congress be manifested, when it would become the duty of the armed ships of the United States, as soon as the tax was imposed, to protect this trade, as well as all other trade on which taxes were laid? He asked whether vessels engaged in this trade would not, under such circumstances, possess the same right to the protection of the Government as any other vessels engaged in any other kind of trade? Can this House tax this trade, and refuse it the same protection that is extended to all other trade? The question is not whether we shall prohibit the slave trade, but simply whether we shall tax it. Gentlemen are of opinion that the State of South Carolina has done wrong in permitting the importation of slaves. Suppose that this is the case, May not this measure be wrong also? Will it not look like an attempt in the General Government to correct a State for the undisputed exercise of its Constitutional powers? It appeared to him to be something like putting a State to the ban of the empire. It will operate as a censure thrown on the State. To this, said Mr. M., I can never consent. As far as the law that may be founded upon this resolution can go, it will hold forth an evidence of the opinion entertained by Congress of the act of the Legislature of South Carolina. I know that these ideas may be unpopular in some parts of the Union, but I, notwithstanding, consider them just. There does not appear to me to be any necessity for our interposition, as, since the adoption of the Constitution, no slaves have, I believe, been permitted to be imported, and as only four years are yet to run before Congress will be possessed of the Constitutional right of prohibiting such importation altogether. And the simple question now is, whether, for a trifling revenue, we will undertake to protect this trade. My idea is, that those who at present go into the traffic, have no right to claim your protection; but once legalize it by taxing it, and they will acquire the right thereto, and will demand it. All that has been said on the circumstances connected with the slave trade, either here or in England, and on its morality or immorality, are in my opinion foreign to the true point involved in this debate, which is, Is the measure contemplated by the resolution politic, or is it not? In my opinion it is impolitic, for the reasons I have assigned, and for many others which might be added. I shall therefore, on this ground, vote against it.

MR. FINDLEY was of opinion that the policy of the measure embraced by the resolution, and nothing else, was before them. Gentlemen seemed all to unite in their abhorrence of the slave trade; they differed only about the means of preventing it. It was well understood that a large majority of the Federal Convention were inimical to the slave trade. That Convention had only acted upon it in a commercial point of view. As they considered imported slaves an article of commerce, the House possess the same liberty of acting with regard to them as with regard to other articles of trade. In some of these articles, Congress had the right of exercising unlimited taxation; in this case, their power was limited to a certain amount. Imported goods, on an average, were subjected to a duty of about 20 per cent. On this subject, a difference of opinion exists as to the propriety of making imported slaves an article of revenue. This is the true question, and not whether we shall cast a censure upon any particular State. It does not follow, that, because we lay a particular tax, we censure those who pay it. Considering this, then, as an article of trade, the tax might have been long since laid, had not all the States prohibited the traffic. Under those circumstances, it could not be taken up as a subject of revenue.

MR. F. observed, that, though it might be unbecoming in the House to be influenced by resentment against the State of South Carolina, yet it was proper that they should be influenced by the policy of the case. As a profitable article of commerce, it appeared as eligible a subject of taxation as could be found, and as justly liable to taxation as any other. As to the disgrace, which some gentlemen were of opinion would arise from taxing it, that arose from the existence of the slave trade. In laying the tax, we shall do all we can to discourage it; and if we do not like to use the money derived from taxing it in the common way, we may apply it to special objects—to ameliorate the state of slavery, or to any other object.

MR. F. concluded his remarks by observing, that this question being brought forward, he could not justify himself in neglecting to embrace the opportunity it presented of discountenancing the importation of slaves. He considered it proper that Congress should take up the subject as the Constitution presented it to them. At a certain period they would possess the right of prohibiting it altogether, and until then they enjoyed the power of taxation. This being the only Constitutional power they did possess, he trusted they would exert it.

MR. S. L. MITCHELL declared his wish that the proposition of the gentleman from Pennsylvania (MR. BARD) should be considered merely as a subject of political economy. In the remarks which he proposed to offer upon it, he should, therefore, confine himself to that object. He would, therefore, say nothing on the immorality of a trade which deprived a large portion of the human species of their rights. He should pass over, in silence, everything that might be urged to exhibit it as impious and irreligious; and he would not utter a word on its repugnance to the principles of our equal jurisprudence, and the spirit of our free

Government. The slavery of a portion of our species was a copious theme, when viewed in either of these aspects; but, on the present occasion, he was willing to waive them all. The proposition was to be considered only in its commercial, economical, and fiscal relations; and on each of these it would be proper to make a few observations.

It was much to be regretted that the severe and pointed statute against the slave trade had been so little regarded. In defiance of its forbiddance and its penalties, it was well known that citizens and vessels of the United States were still engaged in that traffic. During the present session, memorials had been presented to Congress praying for exoneration from the exportation bonds, which had been given to one of the collectors of the customs, to insure the landing of a cargo of New England rum in Africa, which it was not pretended to be denied was bartered away for slaves. These voyages were said to be carried on under the flag of a foreign nation; and the common practice, as was alleged, was, to go to the island of St. Croix and procure Danish papers and colors. Under this cover, the voyages were performed. To prevent the confiscation of the vessels under the law, on conviction of being engaged in the slave trade, it had been customary to sell that article of property in a foreign port.

MR. M. observed that the extent of this shocking commerce was very considerable at this time. Some time ago, he had seen a list of the American vessels then known to be hovering on the coast of Guinea in quest of captive negroes. They were numerous and active, and so fatally busy as to excite the apprehensions of the benevolent Sierra Leone company. In various parts of the nation, outfits were made for slave-voyages, without secrecy, shame, or apprehension. The construction of the ships, the shackles for confining the wretched passengers, and all the dismal apparatus of cruelty, were attended to with the systematic coolness of an ordinary adventure. Regardless of legal prohibitions, these merciless men, as greedy as the sharks of the element on which they sailed, collected their slaves along the shores, and at the factories of Negroland, from the river Senegal to the countries of Congo and Angola. Countenanced by their fellow-citizens at home, who were as ready to buy as they themselves were to collect and to bring to market, they approached our Southern harbors and inlets, and clandestinely disembarked the sooty offspring of the Eastern, upon the ill fated soil of the Western hemisphere. In this way, it had been computed that, during the last twelve months, twenty thousand enslaved negroes had been transported from Guinea, and, by smuggling, added to the plantation stock of Georgia and South Carolina.

So little respect seems to have been paid to the existing prohibitory statute, that it may almost be considered as disregarded by common consent. And, therefore, as was observed by a gentleman from South Carolina, (MR. HUGER,) the Legislature of that State had lately repealed their restrictive law, and legitimated a trade which neither that regulation of their commonwealth, nor the

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concurrent authority of the nation, could prevent. And it may be received as a correct general idea on this subject, that the citizens of the navigating States bring negroes from Africa, and sell them to the inhabitants of those States which are more distinguished for their plantations.

Thus in spite of the spirit of our republican institutions, and the letter of our laws, a commerce in slaves is carried on to an alarming extent—a species of slavery peculiar in its form and character, and unlike that which was practised in ancient or modern Europe—a kind of servitude unheard of by the civilized world, until it was made known among the discoveries of the Portuguese along the western coast of that continent which reaches from Ceuta to the Cape of Good Hope. There it seems to have been extant from time immemorial, among the barbarous Powers of a country who have eradicated all the tender relations of society, and established in their place the forceful and ferocious distinctions of MASTER and SLAVE. From those rude and uncivilized tribes, did Christian people learn the lessons of negro slavery. Under such instructors, and with such examples before them, have the Europeans and their descendants carried those savage customs of the Africans into the New World, and most unfortunately tainted with them the manners and ordinances of a more refined race of men. For a delineation of this peculiar state of society, in its native regions, the world is much indebted to the undaunted enterprise of Mr. Parke; as, for its baneful effects upon the white nations who have adopted it, they will long remember the disclosures of Mr. Wilberforce, and the researches of Mr. Clarkson.

This doleful traffic it was not in the power of Congress to prevent by any present regulations. By the 9th section of the first article of the Constitution the power of admitting such persons as they please is reserved to the States, until the year 1808. South Carolina has authorized the importation of negro slaves from Africa. This Congress can neither prohibit nor punish. But the National Legislature can exercise the authority granted by the same paragraph of the Constitution, “of imposing on such importation a tax or duty not exceeding ten dollars for each person.”

There could be no doubt of the power of Congress to declare and levy such an impost on imported slaves for four years to come. The only question therefore was, whether it would be good policy to do so? Mr. MITCHELL contended that it would. On this point, he replied to a gentleman from South Carolina, (Mr. LOWNDES,) who had argued that such a tax would discourage agriculture. He contrasted the cultivation of lands by the labor of freemen, with the more expensive management of them by slaves. He compared the husbandry of the Northern and Middle States, with the rural economy of the South. He examined in detail the moderate profits of a plantation on which bread, corn, grass, and live stock, were raised, and the enormous income derived to the proprietor of an estate employed in the culture of tobacco, rice, cotton, and sugar. He examined the

smaller expense of feeding, clothing, and housing laborers in warm than in cold climates. It has been computed by men of observation, that a working slave on a cotton plantation would, besides supporting himself, clear for his master a net sum of two hundred dollars a year. On the average course of crops, where the plants were not attacked by the cherille, this estimate was considerably below the mark. And on this conviction he believed there was no important article whatever that would bear an impost so well.

Mr. M. then replied to an argument of the gentleman from North Carolina, (Mr. MACON,) that the imposition of the tax would be a recognition of the right to trade in slaves, and bind the nation to protect it with the force of the Navy. He considered slavery already recognised in many of the States, and permitted by the Constitution. It was a fact that it did exist, and Congress could not put an end to it. But this body might interpose its authority, and discountenance it as far as possible; and by laying the duty as high as the Constitution permitted, a very desirable addition would be made to the revenue. Two hundred thousand dollars might be computed to be derived from this sort of merchandise imported into the country. Nor would Congress be bound to protect the African commerce on the high seas; the existing statute would be in force against it; the trade would still be unlawful as far as the power of Congress extended. And under the proposition now under debate, this species of traffic would be so far from receiving encouragement, that it would be punished in cases where Congress could punish it, and taxed in the cases to which the power to punish it did not extend.

He then delineated the wretched condition of a man subdued by fraud or force, deprived of the exercise of his will and judgment, subjected to the dominion and caprice of another, robbed of his rights and privileges, divested of moral power and agency, degraded from the rank of a human being, and brutalized into a *chattel*—a *thing*—and divested of the character of a *person*. In this point of view, such articles, bought and sold publicly in the market, were to be considered as mere merchandise, as working machines, or animals of labor. Distressing as the reflection was to every sympathizing or patriotic heart, it was useless to dwell upon it, as it was beyond our reach to grant relief. He would therefore treat it strictly as a case of foreign merchandise heretofore admitted free, but upon which it was now intended to impose a duty. For his own part, he should be glad if it could be laid, *ad valorem*, upon the price of the article. But, as the matter was circumstanced, there was no other method that could be adopted than to impose it, *per capita*, upon the individual persons imported. By laying the tax, he would imitate the ways of Divine Providence, and endeavor to extract good out of evil.

Concluding thus that the tax was Constitutional, that the subject would bear it, and that it would be a seasonable and proper expression of the Congressional sentiment on the subject, Mr. M. proceeded to show what an abundance of excellent

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purposes could be answered by \$200,000 collected annually for four years. We might then venture to unbar the door of the statute of limitation, which had been barricaded so firmly and so long, and pay off the balance of the claims demanded by the crowds of supplicating officers and soldiers who wrought out our Revolution, and whose only fault was that they had not presented their accounts within the prescribed time. We might make roads between the Western and Atlantic waters, and transport persons, goods, letters, and newspapers, with greater ease, cheapness and despatch. We might possibly prevent the necessity of new loans and expedients, on a call of emergency. We might afford more ample appropriations for completing the public buildings and streets in the Territory of Columbia, and particularly in the City of Washington; or, besides a variety of other works of public utility, missionaries might be sent forth to explore the new country which had been lately annexed to the United States, by tracing the Red river, the Arkansas, and others of the vast streams south of the Missouri to their sources, that we might thereby acquire a more enlarged and circumstantial account of the extent, boundaries, productions, and value of Louisiana.

In the course of his remarks, Mr. M. said, he had endeavored to avoid all harshness of expression on a topic of a peculiarly delicate nature, and prone to excite much sensibility in debate, but considered it strictly as a matter of political economy. In his attempt to state his reasoning to the Committee, not as an abstract speculator, but as a man of business, he hoped he had given no offence to any gentleman by any severity of animadversion. He looked upon negro slavery as a dark spot on some of the members of the national body, which was spreading wider, turning blacker, and threatening a gangrene all around—and he felt a confidence that all friends to the health of this body would take warning by its fatal progress in a neighboring island—which had so mortified in St. Domingo, as to make that extreme part rot and drop off from the system to which it once belonged.

Mr. SLOAN said he rose to observe, in a few words, that however afflicting it might be to contemplate a certain part of the creation used as articles of traffic, imported and exported the same as cattle, he did not consider the morality or immorality of the practice before the House. We must take the Constitution as we find it, and as it is not in our power to prohibit the importation, the only question to be considered is, whether we shall most encourage the traffic, by letting the articles imported remain free of duty or by imposing a tax upon them. This view, he believed, presented to the mind the true question, and believing himself that a tax would, in some degree, discourage the importation, he should vote for the resolution.

Mr. T. MOORE.—I am astonished to hear gentlemen, who advocate the resolution now under consideration, reprobate a traffic as horrid and infamous, and yet wish to draw a revenue from infamy, if it is an infamy.

I differ very widely in opinion from the honor-

able gentleman from Pennsylvania, who thinks that a tax of ten dollars per head will operate as a check to the growth of this horrid traffic. If I thought it would have that effect I would cheerfully vote for the resolution. I believe a tax of ten dollars will not prevent the importation of a single person of this description.

The gentleman told us that he hoped the General Government were disposed to discourage this traffic as far as they are authorized by the Constitution. I hope this House will discourage this impolitic act of the Legislature of one of the Southern States—not by imposing a tax on those unfortunate people imported into the United States, but by passing a resolution expressive of its disapprobation of all acts permitting the importation of certain people into the United States. As the General Government cannot prohibit this traffic before the year 1808, I hope this House will reject the resolution under consideration, and totally disapprove every measure which attempts to draw revenue from an act that rivets the chains of slavery on any of the human race.

I will not attempt to follow the honorable gentleman from Pennsylvania, who offered this resolution, through his book of lamentations, or through his chapter of horrid traffic, blood, murder, and treason, but will content myself with observing, that I flatter myself this House will never legalize an act by which our national coffers will be stained with the price of liberty.

The same gentleman says, he wishes the General Government to show that they are enemies to slavery. If that is the gentleman's wish, and it is in order, I will offer the following resolution as a substitute for the one under consideration:

*Resolved,* That this House receive with painful sensibility information that one of the Southern States, by a repeal of certain prohibitory laws, have permitted a traffic unjust in its nature, and highly impolitic in free Governments.

The CHAIRMAN declared this motion not in order while the previous motion of Mr. BARD was undecided upon.

Mr. HUGER regretted that he could not see the subject in the same light with other gentlemen who had taken a part in the debate. He had no hesitation in saying that he had always been hostile to the importation of slaves. Nor had he any hesitation in saying that if he had the power he would prohibit the importation. But the situation in which they were now placed was very different from that in which they would find themselves in the year 1808, when they would possess the Constitutional power to prohibit the introduction of slaves. The Constitution was known to be the offspring of concession and compromise, and in no part of it was this feature more apparent than in that which related to this subject. When the Southern States were admitted into the Union they were in the habit of carrying on this species of trade, and they, by the express language of the Constitution, retained the right of continuing it until the year 1808. Under this Constitution the State of South Carolina enjoyed the exclusive right of judging of the pro-

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propriety of allowing the trade or of prohibiting it. Had he had the honor of a seat in the Legislature of that State, Mr. H. certainly would have opposed the passage of this law. But he was only one of that community, standing here as their Representative, and after the State had exercised their undoubted right, however he might dislike the measure, it was his duty to defend the right which they had to adopt it. That State had in truth done no more than she possessed a Constitutional right to do, and he believed there was in that State as much true compassion as in any other in the Union. He said he could not therefore but feel sensibly the attempt to single out this particular State to censure her for doing that which she had an undisputed right to do.

This was not, as contended by some gentlemen, a mere question of revenue; but it was a question whether the Government of the Union should come forward and condemn the act of a State, which she was fully authorized to pass. If it is necessary to increase the revenue, let us meet that subject fairly and fully, and not single out a particular resource of a particular State. It is on this ground that I principally object to this measure. The gentleman from New York (Mr. MITCHILL) has endeavored to prove that because in the Southern States the article of slaves produces a great profit, it is therefore proper to make it the subject of taxation. I ask if there should be a profitable species of trade carried on in any other part of the Union, it would be deemed politic or just on that account to lay an additional tax upon it? The fair principle of taxation is, that every part of the Union should contribute equally. When any branch of trade is profitable in New York, I, though a Southern man, rejoice at it. When the fisheries of the Eastern States prosper, I feel highly gratified—not because those whom I represent are particularly interested in them, but because I consider myself as a part of the whole, and that whatever advances the interests of any part of this Union must promote the interests of every part of it.

With regard to the moral principle involved in the slave trade, we have nothing to do with it. On this point the Union ought to be silent. On this subject can anything be more pointed than the provisions of the Constitution, which, contrary to most of the other provisions, cannot be altered but with the consent of every State in the Union. Why then shall we cry over what we cannot prevent, like a school-boy? Each State, so long as she confines herself within the limits of her Constitutional powers, must be the exclusive judge of her own conduct; and it becomes not one State, influenced by different feelings, habits, and interests, to pronounce upon the conduct of another. All, so far as regards themselves, are judges of right and wrong. We, too, have as strong a conviction of the propriety of our measures as those who differ from us in sentiment on this subject. We may perhaps think it more blameable to make slaves of white people than of the blacks.

I confess I have not been able clearly to under-

stand the ideas of the gentleman from New York (Mr. MITCHILL.) A few days since that gentleman offered a report, the object of which was to free raw materials from duty. Will the State of South Carolina profit by this? No. It will conduce to the benefit of other parts of the Union; but we shall bear the burden: and still, on this occasion, because we derive a certain profit from a particular description of trade, the gentleman contends for taxing it.

Let gentlemen also consider that we are not to be hurried away by our feelings or passions. We are sent here to attend to the business of the nation, and, to do that as it ought to be done, we must yield to a spirit of mutual deference and compromise, we must act fairly and impartially. All we ask in the present case is, to do as we would be done by. We permit the Eastern States to import German redemptioners and others. Let them then permit us to enjoy our Constitutional right of importing slaves, especially when that right will exist but for a short time.

We do not pretend to advocate the act, but the right of our State to pass this law. It is not to be inferred that we are friendly to the importation. I believe, on the contrary, every Representative of the State on this floor is hostile to it. But how can gentlemen expect that we will disregard the voice of our own State, and especially when the measure may have been dictated by good and substantial reasons. One good reason may be that the importation could not be prevented, and that the restraining law was extensively broken. This we know was the fact. If so, may it not have been sound policy in the State to repeal it? There may have been another reason for the measure. It may have been conceived to have been better to import slaves directly from Africa than to be indebted for them to New York and other States in which they may have been surreptitiously introduced.

The gentleman from New York (Mr. MITCHILL) observes that it is demonstrable that even in a pecuniary point of view, slaves are an evil; and that they impoverish those who hold them. What does this show, but that in the North they kept slaves as long as their interest dictated, and then got rid of them; and that because it is a misfortune to have them, we must be punished for our poverty. Though young, I am happy to state that I have seen the evil decreasing in the State I have the honor to represent. Let us alone, and we will pursue the best means the nature of the case admits of. Interfere and you will only increase the evil; for, whenever the Government of the Union interfere in the peculiar concerns of a State, it must excite jealousy and a spirit of resistance.

I beg gentlemen to lay aside, on this occasion, the prejudices to which local circumstances and peculiar State interests and feelings expose them. When I see the lowest of the animal tribe tortured, I feel for them; but does it follow that my interference will mitigate their pain? Do we not all know, that by interfering between a man and his wife, we only aggravate the difference;

and do we not likewise know that any interference between a master and his slave induces the former to be more severe. I believe the State of South Carolina has as great an inclination as any State, similarly circumstanced, to do away this evil. But they must, and ought to take their own course. It is a circumstance well known, that the people to the North, who make the most noise on this subject, are those, who, when they go to the South, first hire, then buy, and last of all turn out the severest masters among us.

Mr. HOLLAND said he would trouble the House with a few observations on this subject. On the resolution before the committee, he considered it improper for the advocates to go so fully as they had gone, into the subject of slavery. All their remarks applied as forcibly to those who held as to those who imported slaves. He could not, for a moment, conceive it the intention of the mover of the resolution to throw out anything that would induce the slaves to rise against their masters. He ascribed his remarks to the zeal which he entertained to set all mankind upon an equal footing. Had the gentleman considered the real situation of the United States, and the situation of those who held slaves, it would have occurred to him that observations of this kind could answer no valuable purpose. What would probably be their effect upon masters and slaves? Might it not tend to make the slaves more refractory; might it not tend to make them rise and commit crimes too horrid to name? Mr. H. was certain this was not the intention of the mover.

Mr. H. said he would take the further liberty of observing, that such remarks did not apply to the real subject before the House. The only question was, whether it was expedient to lay a tax of ten dollars upon every slave imported into the United States. The only question was, as to the expediency of this measure. The morality or immorality of slavery were not to be considered at this time; they were to be laid entirely out of the question. It was not doubted that South Carolina had a Constitutional right to admit the importation of slaves; and it was not competent to that House to censure them for the exercise of a Constitutional right. Why, then, will gentlemen contend against the exercise of this right? In his opinion it was exceedingly improper.

As to the expediency of the measure, will it be of any advantage to the United States to lay this tax? Will they not by laying it pledge the United States to protect the trade? Is not the principle correct that taxation and protection are reciprocal? He had always understood this to be the case, and if it was, would not the General Government, by the imposition of this tax, pledge themselves to protect the trade? If then we are not prepared to protect the trade shall we undertake to draw revenue from it?

Gentlemen, however, allege that this tax, so far from protecting, will discourage the trade. But how does this appear? Are taxes laid in this way? No. Their object is to raise revenue, and all persons taxed are thereby entitled to the protection of the Government. If this law shall pass,

the Government of the United States will derive part of their revenue from the slave trade. For this reason all those opposed to the traffic ought to pay no regard to the proceedings of the Legislature of South Carolina. Thus, in a short time, South Carolina may be induced to repeal the law. If, on the contrary, you raise a revenue from imported slaves, the citizens of that State may consider it right to go into the trade on an extensive scale. Mr. H. said he believed the greatest disapprobation would be shown by passing over the subject in silence, and by refusing to consider slaves as an article of taxation. The time would shortly arrive when Congress would possess the right of prohibiting the importation of slaves. He trusted, when it did arrive, they would make it a capital offence to import them, and thus prohibit the practice altogether.

Mr. LUCAS observed that, though much had been said on the merits of the resolution, he would take the liberty of adding a few remarks. It was a maxim that, to justify the raising of a revenue, a Government ought previously to stand in need of money. The pecuniary wants of a Government were absolute and relative. The fit objects of taxation were likewise various. Some objects bore taxation better than others. When Governments want money to satisfy indispensable demands, taxes must be laid; and even when they are not in immediate want of money for pressing emergencies, there are frequently important purposes that might be answered in case they possessed resources. On this occasion it is said that the Government is not in want of money, that the existing revenue meets the wants of the nation, and that, consequently, a new tax ought not to be laid. This may possibly, strictly speaking, be correct. But to say absolutely that we do not want money, he must deny; for he believed if they had money in the Treasury, not required for pressing exigencies, they could find abundant occasions for spending it to good effect. It was known that there were many claims preferred against the Government, of a meritorious kind, and which had been disallowed, not so much on their intrinsic merits, as from the operation of the statute of limitations. This limitation, said Mr. L., it is my wish should be removed, and one way of effecting that end will be to increase our revenue, as we shall thereby be enabled to discharge all just demands exhibited. The laying out, likewise, of roads was an important object. One is contemplated from this place to New Orleans. Without going further into a view of the various demands on the Government, we shall see the occasion that exists for more money being drawn into our Treasury.

As to the nature of the slave trade, we must, in my opinion, consider slaves imported as so much produce or merchandise. This article ought, in my opinion, likewise to be taxed, because the trade is odious; also, because it affords a great profit to those who carry it on. It was yesterday stated by a gentleman from New York that a slave employed in the Southern States would pay for himself in two years; that is, that a slave that costs four



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hundred dollars will give a profit to the owner of two hundred dollars a year. As, therefore, no article imported into the United States gives a greater profit, so no article can better bear a tax. It ought also to be taxed, because the importation of slaves into the United States operates injuriously on the poor whites who draw their subsistence from labor. Their comparative situation in relation to the rich, is reduced; for if you increase the black laborers, so as to make them work for a lower compensation, you virtually reduce the value of the labor of the whites, and proportionally lessen the chance of a poor white man getting employment on favorable terms. It is well understood that competition always reduces the price of an article in the market; and although the blacks may not, in all respects, enter into a competition with the whites, yet, so far as respects labor, the competition will be complete. The rich part of the community will not employ a white man who feels the spirit of a freeman, and who will not submit to be subservient to the caprices of his employer, so long as they can employ a slave whom they can control as they please, and at a smaller expense. The indisputable effect, therefore, of the introduction of additional slaves will be the reduction of the value of labor, and the augmented severity of the lot of the poor white man, who is entirely dependant on his labor for the support of himself and family.

Gentlemen tell us we ought not so closely to scrutinize the conduct of the Legislature of South Carolina. I am, said Mr. L., far from scrutinizing in this instance the conduct of that State. I respect the people of South Carolina. Their situation may, perhaps, be such as in a great measure to justify their conduct, though I am far from saying that I approve it. But when we lay a tax on the importation of slaves, it is a sufficient reply to such remarks to say that the tax is not laid exclusively on slaves admitted into South Carolina. It does not therefore apply to South Carolina alone. That State has an undoubted right to admit the importation; but Congress have also an undoubted right of taxing them. The resolution, therefore, does not encroach on the rights of that State. The United States and South Carolina form two bodies politic, both of which are possessed of Constitutional rights. To the one belongs the right of importing, to the other, the right of taxation; and this last right may be exercised without involving any censure of the State of South Carolina. The only necessary inquiry is, whether the proposed tax will be oppressive or unjust. I believe it will be universally agreed that an imported article worth four hundred dollars will not be taxed high compared with other articles, when it pays a duty of ten dollars. As to the constitutionality of the tax not a word need be said; that has not and cannot be disputed.

It cannot, I think, be justly said, by imposing this tax we single out the State of South Carolina with a view to punishing her. The mode of inflicting punishment is otherwise devised, as will appear by our statute books. They will show that when punishment is meant, it is by fines and pen-

alties and not by taxes. The resolution does not, therefore, single out South Carolina; there is, in fact, not one word respecting South Carolina in it. It is not said the tax shall be laid upon slaves coming from Africa or going to South Carolina, but on slaves imported into the United States. If the tax shall operate more on South Carolina than on any other State, it will not be our fault. It will remain at her option at any moment to put herself into such a situation as to avoid it. The remedy is in her hands; she can when she pleases prohibit the importation of slaves, and the tax, so far as it falls on her, will immediately cease. And if other States admit the importation of slaves the tax will equally apply to them.

It is known that the thirst for gain is, at this time, more alive in this country than ever. This inordinate appetite, unless checked, may, in a few years, effect the introduction of one hundred thousand slaves. The opening in South Carolina will virtually amount to the same thing as if the importation of slaves were admitted into every State in the Union; for once introduced into one State, and they will soon find their way into the others where slavery is allowed. Wherever they go, the poor white man need not fix himself; for his labor and relative importance in society will be as nothing. If there be an importation of one hundred thousand, each being taxed ten dollars, the product will be one million of dollars, a handsome sum, by no means to be despised.

I do not, with some gentleman who have taken a part in this debate, believe that the imposition of the tax will legalize the trade, or that this Government will thereby countenance it. On the contrary, I draw a very different inference. The importation is not legalized by the Union, but by the act of South Carolina; and, legalized by her, it is out of our power to illegalize it. In laying this tax we are only exercising that power which the Constitution confers. Nor can the Constitution or our statute books be stained by Congress doing that which the Constitution itself empowers. Deeming the importation an evil, we shall, by laying this tax, do all in our power to diminish it, and, to the extent of our ability, extract the little good it is capable of producing. In making these remarks I am not the mere moralist, or the visionary speculatist. I consult the Constitution, and am governed by its language. As the Constitution acknowledges the right of the State to admit the importation of slaves, I also acknowledge it; and as the same Constitution vests us with the right of taxing them, I consider that also to be proper.

The Committee rose and the House adjourned.

WEDNESDAY, February 15.

*Ordered,* That the committee to whom was referred, on the thirteenth instant, the petition and memorial of sundry inhabitants of the City of Washington, in the District of Columbia, subscribers and members of the association for the erection of a theatre in the said city, have leave to report thereon by bill, or bills, or otherwise.

Mr. NICHOLSON, from the committee last mentioned presented a bill to incorporate the Washington Theatre Company; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. NICHOLSON, from the committee appointed the thirteenth instant, presented a bill providing for the settlement of sundry claims to public lands lying south of the State of Tennessee; which was read twice and committed to a Committee of the whole House on Monday next.

#### NAVY ACCOUNTS.

Mr. LEIB observed that an account of the most extraordinary nature had been recently laid before the House, by the Navy Department, respecting the expenses of the Marine Corps. It was indeed a phenomenon in accounts. It was of such a nature as required the interposition of the House, either to annihilate or reform the office of Accountant of the Navy. The statement was a species of nondescript never seen before in the United States. From it, it appeared that the public money had been expended in a most extravagant way, without any efficient check.

From it, it likewise appeared that the lieutenant colonel commandant has united in his person the offices of quartermaster, foragemaster, commissary, and paymaster, without check or control. There was a high necessity, Mr. LEIB said, when the Government was looking to economical reforms, to attempt some reform in this department of expenses. It was his opinion that the office of the Accountant of the Navy ought to be abolished, or, at any rate, some salutary reform effected. He, therefore, moved a resolution,

"That the Committee of Ways and Means be instructed to inquire into the expediency of abolishing the office of Accountant of the Navy; to report by bill or otherwise."

The House having taken up the resolution—

Mr. J. CLAY said that he had no objection to the passage of the resolution; but he would state, for the information of the House, that the Committee of Ways and Means had had the subject, together with that presented by an inquiry into the expediency of abolishing the office of the Accountant of the War Department, before them, for some weeks past.

Mr. LEIB replied that he was aware that the subject was generally before the Committee of Ways and Means; but the House had been in session four months without any report being made on it. His object was that this resolution should be passed as an instruction to the committee to pay a particular and early attention to the subject.

Mr. NICHOLSON moved to amend the motion by adding to it, "and the office of the Accountant of the War Department." His reason for this motion was that a bill to that effect was introduced into the House two years ago. Mr. N. added that he was of the opinion, that an infinitely better arrangement could be made at the Treasury if these offices were abolished than if they were retained.

Mr. LEIB acquiesced in the amendment.

The resolution, so amended, was then agreed to, yeas 61.

#### PUBLIC ROADS.

The bill making provision for the application of the money heretofore appropriated to the laying out and making public roads leading from the navigable waters emptying into the Atlantic to the Ohio river, was read the third time.

Mr. SMILIE moved its postponement to the first Monday in December, on the ground that the measure was premature, as the fund had not become sufficiently productive to justify the taking any immediate steps.

Mr. JACKSON supported the bill, on the ground, that Congress having pledged themselves to appropriate the money, there was an obligation imposed upon them to expedite the application of it, that the beneficial effects expected from it might be the sooner realized.

Mr. MORROW advocated the postponement till the next session. He was hostile to the present bill on account of the transfer of the power of designating the routes to Commissioners, under the direction of the President; under the belief that it would involve a great and useless expense.

After a few remarks from Mr. SLOAN, in favor of the bill, and from Mr. LYON in support of the postponement, the motion to postpone was negatived—yeas 38, nays 49. When the bill passed—yeas 60.

On motion of Mr. JACKSON, the title was varied, so as to read "An act authorizing the appointment of Commissioners to explore the routes most eligible for certain roads," &c.

#### IMPORTATION OF SLAVES.

The House again resolved itself into a Committee of the Whole, on Mr. BARD's resolution to impose a tax of ten dollars on every slave imported into the United States; the debate on which occupied the remainder of the sitting.

Mr. LUCAS supported, and Mr. HOLLAND opposed the resolution.

Mr. EARLE moved that the Committee rise and report progress. His reason for this motion was, that, from information received from South Carolina, on which he placed much reliance, it was expected that the Legislature would meet in April, and would then repeal the act admitting the importation of slaves. Should the Committee rise, he would move a postponement of the consideration of the resolution to the first Monday in May.

Mr. GREGG.—I hope the motion for the Committee to rise will prevail, and that any further proceeding on this subject will be postponed for the present. It has been said by the gentleman from South Carolina who made the motion, and I have heard it mentioned by others, that a considerable ferment has been excited in that State by the passage of the law authorizing the importation of slaves, and that it is highly probable the Legislature, at its next session, will repeal that law. That session, it is expected, will be held in April, the Governor having it in contemplation to convene the Legislature at that time for the purpose of submitting to their consideration the proposed amendment to the Constitution.

When this resolution was first proposed by my

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colleague, I felt pleased that it was brought forward, and considered its adoption as a necessary and proper measure; but, on mature reflection, I acknowledge I have very considerable doubts. I think the House had better pause, and weigh with deliberation the probable effects of the resolution, before they give it their final sanction. Irritated by such a resolution, South Carolina may continue the law, which, although very obnoxious in our view, she certainly had a Constitutional right to pass, and which, if undisturbed by any act of ours, she may, on cool reflection, and in conformity to the wishes of her own citizens, be induced to repeal. By precipitancy in the business we may possibly confirm the very act which it is our intention to destroy.

Let it not, Mr. Chairman, be inferred, from what I have said, that I am in principle opposed to the effect which I am confident the mover of the resolution expected it would produce. No member of this House is, or can be, more decidedly opposed to slavery than I am. In the State from which I come slavery is scarcely, if at all, known. I do not know whether, at this moment, it has any existence there. However the inhabitants of that State may differ on other points, on the subject of slavery we are all united. All parties have joined in abolishing it. I sincerely wish that Congress possessed a Constitutional power to abolish it, or at least to check its further progress in the United States. If they did possess such power, I would most cordially concur in putting it into operation. Instead of ten dollars, I wish the Constitution would warrant us in imposing a tax of one hundred, or of five hundred dollars on each imported slave. I would willingly vote for that sum, because it would amount to an entire prohibition of such importation, and effectually destroy the traffic, which I consider highly impolitic, as well as contrary to the principles of justice. But, admitting the resolution to be proper, the arguments by which it has been supported are, in my view, very exceptionable. The immorality of the slave trade has been insisted on at considerable length and with great zeal. This, to say no more of it, is certainly unnecessary in this House, because I am confident no gentleman on this floor will advocate the practice on the ground of morality. Why then so much pains to prove what we already believe? The conduct of the General Government, ever since the adoption of the present Constitution, affords sufficient evidence of the sentiment of Congress on this subject. Their records will prove that they have omitted no favorable opportunity of exerting their Constitutional power to suppress the trade.

But the argument founded on slaves being a fair article of commerce, warranted as such by the Constitution, and, of course, that a duty on their importation is a proper source of revenue, is still more extraordinary. I felt both surprised and hurt by this argument. I never expected to hear such a one advanced on this floor. Never, until now, did it occur to me that Congress would at any time think of deriving revenue from such a source. If money is wanting, I would submit

to any tax—I would even agree once more to have recourse to a direct tax—rather than stain our Treasury by filling it with money collected from a duty on imported slaves. The imposition of such a tax certainly wears the appearance of giving countenance to the trade. However contrary to our intention, it will have the appearance, and so it will be construed by the importers. Sanction the trade by imposing the tax, and soon the traders will demand your protection.

When the present Constitution was adopted, there were no laws in several States to prohibit the importation of slaves. It is but a few years since such a law was passed by the State of Georgia. During all that period money was much wanted. The revenue was not adequate to the demand. Government was compelled to have recourse to loans, and in some instances had to submit to a heavy interest; yet in all that time the idea, I believe, was never suggested in Congress of supplying the deficiency by imposing a tax on slaves, although numbers were then imported. From this it may be inferred, that at that time the power vested in Congress by the Constitution of imposing a tax of ten dollars on each person imported into any of the then existing States, agreeably to its laws, was not considered as given for the purpose of raising revenue. It was given, it may be presumed, for the purpose of being used as a check to the trade, and at the time the Constitution was adopted, the exercise of that power might have contributed to produce such effect. The price of slaves was then low; their labor was not so productive to their owners, and, of course, ten dollars in addition to the then current price might, in some measure, have checked the spirit of purchasing. But soon after that period, by the introduction of the cultivation of cotton, the labor of slaves became more valuable, and their price enhanced in proportion. Ten dollars then bore some proportion to the price of a slave, but at this time it is comparatively as a cypher. A planter who can find his advantage in giving four hundred dollars, which is said to be the present current price of a good negro, will think but little of ten additional dollars. In the present state of things, therefore, I take it the proposed tax cannot effect the object contemplated by the mover of the resolution—it can neither prevent nor remedy the evil; and as it has the appearance of giving legal sanction to the trade, and may have an influence on the Legislature of South Carolina, inasmuch as it is an implied attack on their sovereignty, and a censure on them for passing an act which, however important it may be in our view, the Constitution certainly did authorize them to pass, I think the further consideration of the subject had better be postponed for the present; perhaps always, until Government may have it in its power to adopt measures calculated to produce an entire prohibition of the trade.

Mr. SMILIE regretted that a motion of postponement was made. He wished to meet the subject fairly, and to obtain the decision of the House directly. He well knew, from experience,

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that this was a favorite way of getting rid of a subject which gentlemen were indisposed to meet. So viewing the subject, he could not but feel surprise at the sentiments of his colleague.

It is urged that we have no right to intermeddle in the affairs of South Carolina, or to speak of the act of the Legislature. He allowed that they had no right, as a Legislative body, to censure the State of South Carolina for the exercise of a Constitutional power. They undoubtedly had a right to do what they have done. But at the same time the Legislature of the Union possesses as good a right to do what is now proposed to be done. This is a complete answer to the argument advanced against the resolution.

Mr. S. said he would wish to steer clear of the question of morality. But at the same time that he considered it prudent to avoid this discussion, he could not but think the interest of the Union involved in the measure pursued by South Carolina. It was but a short time since Congress had received a representation from that State expressing the great danger apprehended from slaves pouring into the country. It would be recollected how earnestly they had been pressed to pass a law to counteract this effect, which, in some of its provisions, was so exceptionable as not to be agreed to. When I recollect this circumstance, said Mr. S., I feel surprised that that State has again opened the importation of slaves. It is true that the importation from the West Indies is not opened. But this description of persons, though in the first instance brought from Africa, may, at a future day, be converted into as formidable enemies as the others.

This measure so far affects the interests of the Union, as it tends to weaken the common defence of the country, into which every slave that is admitted must be viewed in the light of an imported enemy. In this view, the act of the Legislature of South Carolina seriously affects the Union. For we know that in case of an insurrection in any one part of our country, the Union is bound to suppress it.

Mr. S. said he would notice a few other objections urged against this resolution. He would first declare, as to revenue, so far as the resolution was considered merely in that light, he was not its advocate; for he abhorred the idea of raising a revenue from a traffic in human beings; if it were considered in that light he should vote against it. But he viewed the subject on a larger scale. He considered its effect on national character.

Gentlemen say the tax will sanction the law of South Carolina. Such an argument he could not comprehend. He had ever understood that the laying a duty on any particular article of trade rendered it more difficult to carry that trade on. He knew the proposed tax was very small; but small as it was it would have some effect; it would, at all events, show that it was a trade not approved by the Legislature of the Union.

Mr. S. concluded by saying that, whether the resolution was expedient or not, it was before them, and they must express their sentiments

upon it. He would ask, whether it would be for the reputation of the nation to reject it? As to the existence of slavery in some parts of the Union, they were not chargeable with it. It was out of their power to help it. But, on this occasion, some act was required of the House expressive of their disapprobation of the renewed importation of slaves.

Mr. LYON said he considered the resolution as giving a sanction to the trade; and he also considered the State of South Carolina as having, in the passage of the law admitting slaves, exercised the right of a sovereign State. He should, therefore, not vote for the resolution, but for the postponement.

Mr. HUGER said the arguments urged by the friends of the motion were two-fold. One class of gentlemen say they are not in favor of this tax for purposes of revenue, but to manifest the opinion of the National Legislature; while another class declares their only reason for laying it is the revenue it will bring into the Treasury. A decision, therefore, by the House, will settle no principle; for supposing that a majority of the members shall be found in favor of the tax, one-half of them will vote for it on one principle and one-half on another. Under these circumstances, he appealed to gentlemen inclined to favor the resolution, whether it would not be the best policy to wait until the Legislature of South Carolina had an opportunity of repealing the obnoxious law. Is it a pleasant thing to any gentleman on this floor to throw a stigma upon a State? And will not gentlemen from the Middle and Eastern States recollect that the situation of South Carolina is very different from that of their States? Let them, then, do as much good as they can at home; but let them, in God's name, permit us to act for ourselves. It is a very easy thing to make some harsh remarks on the conduct of particular States, even of the State of Pennsylvania, much as that State is deservedly respected. Mr. H. said he did not believe that State stood one iota higher than other States in the Union. For he believed that peculiar interest operated there as well as in other States.

Mr. H. said, from what had been expressed to-day, he did not believe the people of South Carolina friendly to the act admitting the importation of slaves. Every representative of that State on this floor wished, he believed, that it had never been passed. But as it had passed, they conceived it to be their duty to resist a measure which went to censure the State for the exercise of an undoubted right.

After making some further remarks, Mr. H. concluded by expressing his hope that the resolution would be postponed.

Mr. STANTON.—Mr. Speaker, I am highly gratified to find honorable members in every part of the House who reprobate the infamous traffic of buying and selling the human species. On this occasion but a few remarks are necessary, if morality, humanity, and justice, are conducive to the happiness of society. It is not my duty nor intention to criminate the State of South Carolina,

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whose late conduct has created serious and well founded alarm. It is a duty I owe to my constituents and myself not to connive at a measure that, in my humble opinion, goes to shake the pillars of public security, and threatens corruption to the morals of our citizens, and tarnishes the American character. Sir, while I deprecate the repeal of the non-importation act of South Carolina, I console myself with the pleasing expectation that the State will retract the error they have recently and unguardedly fallen into, and I can not doubt but the honorable members from that State, on this floor, will lend their aid to effect so desirable a measure—to enact again the prohibitory statute. We are told if the House adopt the resolution, it will irritate South Carolina, notwithstanding the opposers of the resolution confess the impolitic conduct of South Carolina. I wish not to offend any of our sister States, much less, that important State whose wisdom, virtue, and patriotism, have been conspicuous on every other occasion. The opposers of the resolution inform us its adoption will both encourage and sanction the importation, and that they have a Constitutional right to import until 1808. I grant it, but I hope better things of that State; and things that accompany reformation. She has recently, with other States, emancipated herself from tyranny and oppression, and will she sully her fair fame by commencing tyrant herself? Sir, the speakers from the State of South Carolina, and particularly the honorable member who offered a resolution as a substitute for the one under consideration, delivered himself in sentiments of the most admirable humanity, and constitutional love and zeal for his country; and if he were a member from any other State in the Union, I should have the honor, I make no doubt, of voting with him for the resolution on your table. Sir, I am sensible the General Government cannot prohibit the traffic previous to the year 1808. This is one of the most humiliating concessions made by that venerable Convention which framed the Constitution, and we are bound by it. I ask, is the policy of the measure embraced by the resolution sound? I believe it is. I consider slaves a luxury—they are considered by the Constitution, three-fifths of them, to give a Representative, and I ask why not tax them? It is a sound maxim that representation and taxation should go hand in hand. To lay a tax being the only Constitutional power the General Government possesses, I think it good policy to exercise it. It is the opinion of some gentlemen, and of the honorable gentleman before me, whose sound judgment and correctness I highly approve on most occasions, that the tax is of little consideration in point of revenue. I beg leave to differ from them, when I take into consideration the wish of many influential characters to emigrate to our newly acquired territory, and carry with them slaves almost without number. We may fairly calculate that the probable number imported will not be less than one hundred thousand a year for four years, which will bring a revenue of four million of dollars; and this sum may be appropriated to remunerate

the veteran, war-worn old soldier, who is now languishing in misery, and whose just claim is barred by an act of limitation. I beg pardon of the House for this deviation from the subject under consideration. While I am up, I beg the indulgence of the House to permit me to relate to the House what I beheld on the road to the seat of Government—twenty or thirty negroes, chained to each other, and drove like mules to market. I asked the gentleman who appeared to have charge of them, if they were criminals? He answered with a smile, No sir; they have been sold. Sir, this awful sight gave me such sensations and emotions, that it is painful to relate and not easy to describe them. Sir, if I have been compelled, in the discharge of the duty I owe to society and my constituents, to make any remarks that have wounded the feelings of any honorable gentleman who may differ with me in sentiment, I regret it much, as I am conscious it was far from my intention. I shall give my vote for the resolution.

The State of Rhode Island, from whence I came, passed a law declaring negro children born posterior to 1784, as free as white children. Mr. Speaker, I mention this statute merely to obviate the erroneous impression, that otherwise, might be made with a view to mislead the public mind, that the citizens of Rhode Island are disposed to favor the villanous traffic. I wish not to egotize, but I can assure the House this traffic has been abhorrent to me upwards of forty years, and if I should live to see 1808—that auspicious period in our national compact which shall be exonerated from the tragic feature that has cast a shade on that valuable instrument—if the important acquisition of Louisiana gave ample cause for festivity, still greater cause shall we have when the glorious period shall arrive of 1808. That shall be my jubilee.

Mr. SOUTHARD observed that the object contemplated to be answered by the rising of the Committee was to give an opportunity to the Legislature of South Carolina to repeal the law admitting the importation of slaves. He was opposed to the rising of the Committee for this reason. He believed the House proceeding to act upon the resolution would have a much greater influence upon that State. For he did presume that the House would agree to the resolution, and to a law founded upon it; and he also believed that if they proceeded to this extent, the Legislature of South Carolina would be most likely to be induced from that very circumstance to repeal the law. We are told that a number of the citizens of that State are opposed to the law, and every representative of South Carolina on this floor regrets its passage. Mr. S. said he believed almost every member of the House was of this opinion. If then we shall dismiss this resolution, what effect will the act have on the whole United States? Will it not convey the idea that the Congress of the United States do not consider the introduction of slaves into the country a real evil? For this, Mr. S. said, he was opposed to the rising of the Committee, as it would prevent the House from declaring their sentiments on so important a question. He did

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not so much regret the introduction of the resolution as some gentlemen who had spoken. He rather rejoiced at it, as it gave the National Legislature an opportunity to bear their opinion against the increase of the slaves in the United States. Mr. S. said he avoided intentionally saying anything on this occasion as to the right of holding slaves already in the country; meaning to confine his remarks entirely to the impolicy and injustice of allowing new importations of them. And he was surprised, after the exposure of the evils likely to ensue from it, gentlemen still opposed the resolution. Let them look forward to what may happen before the four years shall elapse when we may make the importation a capital offence; and consider how large a number may be previously introduced. Mr. S. said he did not consider the resolution important so far as it went to raise revenue; but if any State would encourage the traffic, he thought they ought to be made to pay for it.

Mr. SLOAN declared himself against the proposed postponement, which was supported on the supposition that South Carolina would repeal the law allowing the importation of slaves, a supposition which might prove illusory. Even should the law be repealed, he saw no injury that would result from passing the resolution. Should the law not be repealed, it was extremely probable that a very large importation would take place—at least a hundred thousand might be introduced, the evil of which to the United States would be incalculable. Mr. S. said that, in his humble opinion, to pass over the business would be to create the appearance throughout the Union that Congress were disposed to sanction this traffic. He should, therefore, vote against the Committee rising.

After a few further remarks, by Mr. HUGER and Mr. LUCAS, the question was taken on the rising of the Committee, and passed in the negative—yeas 58, nays 60. When the resolution was agreed to.

The Committee rose and reported their agreement to the resolution, which the House immediately took into consideration.

Mr. WINN moved to postpone the further consideration of the resolution till the first Monday in January, and required the yeas and nays.

Mr. J. CLAY said, as it was probable that he should vote for the postponement, it was proper to assign the reasons which decided his vote. From information given to the House during the present discussion, it appeared that considerable agitation existed on the subject of the law admitting the importation of slaves in the State of South Carolina. As there appeared to be considerable irritation in the State, the interposition of the House might frustrate its repeal. From the ideas of the representatives of that State, it was probable that, on fuller reflection, the Legislature would repeal this act. If, after an opportunity was given them, they should not repeal it, he should certainly vote for the resolution. But wishing to prevent the traffic, rather than to raise revenue, he should vote for the postponement.

Mr. LUCAS, Mr. SLOAN, and Mr. STANTON, concisely opposed the postponement, and Mr. CLAIBORNE supported it.

The question was then taken on the postponement, by yeas and nays, and passed in the negative—yeas 54, nays 62, as follows.

YEAS—Willis Alston, jun., Nathaniel Alexander, George Michael Bedinger, Silas Betton, William Blackledge, Walter Bowie, John Boyle, William Butler, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, William Eustis, John Fowler, Edwin Gray, Andrew Gregg, Roger Griswold, Samuel Hammond, Wade Hampton, Seth Hastings, Joseph Heister, James Holland, Benjamin Huger, Michael Leib, Thomas Lowndes, Matthew Lyon, Andrew McCord, David Meriwether, Thomas Moore, Joseph H. Nicholson, Thomas Plater, John Randolph, John Rhea of Tennessee, Thos. Sandford, Tompson J. Skinner, John Cotton Smith, James Stephenson, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Daniel C. Verplanck, Lemuel Williams, Richard Winn, and Thomas Wynns.

NAYS—Isaac Anderson, John Archer, Simcon Baldwin, David Bard, Adam Boyd, Robert Brown, Joseph Bryan, William Chamberlin, Clifton Claggett, Matthew Clay, Frederick Conrad, Ebenezer Elmer, John W. Eppes, William Findley, James Gillespie, Peterson Goodwyn, Gaylord Griswold, John A. Hanna, William Helms, William Hoge, David Holmes, David Hough, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, John B. C. Lucas, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Gideon Olin, Beriah Palmer, Thomas M. Randolph, Jacob Richards, Caesar A. Rodney, Erastus Root, Thomas Sammons, Ebenezer Seaver, James Sloan, John Smilie, John Smith of New York, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Samuel Taggart, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, Marmaduke Williams, and Joseph Winston.

And then the main question being taken that the House do agree to the said resolution, as amended to read as follows:

*Resolved*, That a tax of ten dollars be imposed on every slave imported into any part of the United States:

It was resolved in the affirmative—yeas 71.

*Ordered*, That a bill, or bills, be brought in, pursuant to the said resolution; and that the Committee Ways and Means do prepare and bring in the of same.

THURSDAY, February 16.

The House went into a Committee of the Whole on the bill to amend the charter of Alexandria.

After undergoing several amendments the bill was reported to the House.

On motion of Mr. EPPES, an amendment was made—ayes 49, noes 39—by which every freeholder is made eligible as a member of the Common Council, instead of only such freeholders as are worth five hundred dollars.

On motion of Mr. LEIB, the bill was so amended as to make every freeholders eligible as Mayor,

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instead of requiring a freehold estate of one thousand dollars—ayes 47, noes 36.

The bill was then ordered to be engrossed and read a third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill in addition to "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary war;" and, after some time spent therein, the bill was reported without amendment, and the farther consideration thereof postponed until to-morrow.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill laying a duty on slaves imported into the United States; which was read twice and committed to a Committee of the Whole House.

And on motion, the House adjourned until to-morrow.

#### FRIDAY, February 17.

Memorials of JOHN P. VAN NESS, and others, inhabitants of the city of Washington, in the District of Columbia, and residing on the west side of Tiber creek, in opposition to the prayer of sundry petitions lately presented to this House, "that Congress will, by law, authorize the establishment of a company for the purpose of building a bridge over Potomac river, from the western and southern extremity of the Maryland avenue, in the city of Washington, to the nearest and most convenient point of Alexander's island, in the said river," were presented to the House, and referred.

*Ordered*, That the committee appointed, on the seventh instant, "to inquire into the expediency of providing by law against the appointment of Judges of the Courts of the United States to other offices under the Government," have leave to report by bill, or bills, or otherwise.

Mr. LEIB, from the committee last mentioned, presented, according to order, a bill more effectually to secure the independence of the Judges of the Courts of the United States; which was read twice and committed to a Committee of the Whole House on Monday next.

*Resolved*, That a committee be appointed to prepare a bill for altering the days of session of the Federal District Court for the district of Virginia.

*Ordered*, That Mr. NEWTON, Mr. LOWNDES, and Mr. GEORGE W. CAMPBELL, be appointed a committee, pursuant to the said resolution.

A memorial of sundry merchants of the city and State of New York, was presented to the House and read, praying that such further encouragement may be given for carrying on the fisheries of the United States, as to the wisdom of Congress shall be deemed reasonable and proper.

*Ordered*, That the said memorial be referred to Mr. HUGER, Mr. BISHOP, Mr. GRAY, Mr. CLAGGETT, and Mr. RHEA, of Tennessee; to examine and report their opinion thereupon to the House.

*Resolved*, That the Committee of Commerce and Manufactures be instructed to inquire into the propriety of amending the laws establishing

the compensations of the officers of the customs; and to report thereon by bill, or otherwise.

Mr. ALSTON, from the committee appointed on the fourteenth instant, presented a bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina; which was read twice and committed to a Committee of the Whole House on Monday next.

Mr. CLAIBORNE, from the committee appointed on the twenty-first of December last, presented a bill making farther provision for extinguishing the debts due from the United States; which was read twice and committed to a Committee of the Whole House on Monday next.

A petition of Moses White and Charlotte Hazen, executor and executrix of the last will and testament of Moses Hazen, deceased, a Brigadier General in the Army of the United States, during the Revolutionary war with Great Britain, was presented to the House and read, praying to be indemnified for the losses sustained by the deceased, on account of relinquishing his half pay as a British officer, and adhering to the American cause; to which indemnification the petitioners conceive the legal representatives of the deceased are justly entitled, by a resolution of Congress, under the former Government, of the twenty-second day of January, one thousand seven hundred and seventy-six.—Referred to the Committee of Claims.

Also a petition of Henry Lenhart, the elder, of the city of Baltimore, in the State of Maryland, was presented to the House and read, praying relief against a judgment recovered against him in the Circuit Court of the United States in the district of Maryland, and execution issued thereon, in the case of a bond given by the petitioner, some time in the month of October, in the year one thousand seven hundred and ninety-eight, as one of the securities for a certain John Holmes, part owner, and William Smith, captain of a schooner, called the *Active*, bound from the port of Baltimore to the West Indies, with condition that the said John Holmes and William Smith should not, during the voyage aforesaid, violate the law prohibiting the intercourse between the United States and France, and the dependencies thereof.—Referred to the Committee of Claims.

A Message was received from the President of the United States, transmitting information in relation to the public lands in the neighborhood of Detroit.

The Message was read, and, together with the papers, referred to the committee appointed on the twenty-second of November last, who were directed by a resolution of this House, of the twenty-fourth of the same month, "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States."

Mr. NICHOLSON, from the committee appointed, on the thirty-first ultimo, presented a bill supplementary to the act, entitled "An act providing for a Naval Peace Establishment, and for other purposes," which was read twice and committed to a Committee of the Whole House on Monday next.

Mr. NICHOLSON, from the committee to whom



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were referred, on the twenty-first of December, one thousand eight hundred and three, and the twenty-fourth ultimo, the several petitions of Marcella Stanton, of Ann Alricks, and of Judith Crow, (late Judith Sayse,) of the District of Columbia, made a report thereon; which was read and considered:

*Resolved*, That the District Court of the District of Columbia ought to be invested with a power to grant divorces, in certain cases.

*Ordered*, That a bill, or bills, be brought in pursuant to the said resolution: and Mr. NICHOLSON, Mr. ROGER GRISWOLD, Mr. WINN, Mr. DAWSON, and Mr. SMILIE, do prepare and bring in the same.

An engrossed bill to amend the charter of Alexandria was read the third time, and passed—ayes 79.

Previously to its passage Mr. SLOAN spoke against it, principally on account of the restriction of the right of suffrage to freeholders.

#### INDIANA TERRITORY.

Mr. RODNEY, from the committee to whom were referred a letter from William Henry Harrison, President of the Convention of the Representatives of the people of the Indiana Territory; also a memorial and petition from the said Convention, together with the report of a former committee on the same subject at the last session of Congress, made the following report:

That, taking into their consideration the facts stated in the said memorial and petition, they are induced to believe that a qualified suspension for a limited time of the sixth article of compact between the original States and the people and States west of the Ohio river, might be productive of benefit and advantage to the said Territory.

They do not conceive it would be proper to break in upon the system adopted for surveying and locating public lands, which experience has proved so well calculated to promote the general interest. If a preference be given to particular individuals in the present instance, an example will be set by which future claimants will obtain the same privilege. The committee are nevertheless of opinion, that after those lands shall have been surveyed, a certain number of townships should be designated, out of which the claims stated in the memorial ought to be satisfied; and that, for the encouragement of actual settlers, the right of pre-emption should be secured to them.

They consider the existing regulations contained in the ordinance for the government of the territory of the United States, which requires a freehold of fifty acres as a qualification for an elector of the General Assembly, as limiting too much the elective franchise. They conceive the vital principle of a free Government is, that taxation and representation should go together after a residence of a sufficient length to manifest the intention of becoming a permanent inhabitant, and to evince, by conduct orderly and upright, that a person is entitled to the rights of an elector. This probationary period should not extend beyond two years.

It must be the true policy of the United States, with the millions of acres of habitable country which she possesses, to cherish those principles which gave birth to her independence and created her a nation by affording an asylum to the oppressed of all countries.

One important object desired in the memorial, the

extinguishment of the Indian title to certain lands, has been happily accomplished; whilst the salt spring below the mouth of the Wabash river has also been placed in a situation to be productive of every reasonable advantage.

After a careful review, and an attentive consideration of the various subjects contemplated in the memorial and petition, the committee respectfully submit to the House the following resolutions, as embracing all the objects which require the attention of Congress at this period:

*Resolved*, That the sixth article of the ordinance of 1787, which prohibited slavery within the said territory, be suspended in a qualified manner for ten years, so as to permit the introduction of slaves born within the United States from any of the individual States: *Provided*, That such individual State does not permit the importation of slaves from foreign countries: *And provided further*, That the descendants of all such slaves shall, if males, be free at the age of twenty-five years, and if females at the age of twenty-one years.

2. *Resolved*, That every white free man, of the age of twenty-one years, who has resided within the territory two years, and within that time paid a territorial tax which shall have been assessed six months before the election, shall enjoy the right of an elector of members of the General Assembly.

3. *Resolved*, That in all cases of sales of land within the Indiana Territory, the right of pre-emption be given to actual settlers on the same.

4. *Resolved* That the Secretary of the Treasury be, and he is hereby, required to cause an estimate to be made of the number and extent of the claims to lands under the resolution of Congress of the 29th of August, 1788, and the law of the 3d of March, 1796, and to lay the same before this House.

5. *Resolved*, That provision, not exceeding one thirty-sixth part of the public lands within the Indiana Territory, ought to be made for the support of schools within the same.

6. *Resolved*, That it is inexpedient to grant lands to individuals for the purpose of establishing houses of entertainment, and opening certain roads.

7. *Resolved*, That it is inexpedient at this time to vest in the Legislature of Louisiana Territory the salt spring below the mouth of the Wabash river.

8. *Resolved*, That compensation ought to be made to the Attorney General of the said Territory for services performed by him on behalf of the United States.

The report was read and referred to a Committee of the Whole on Monday next.

#### IMPORTATION OF SLAVES.

The House resumed the consideration of the unfinished business of yesterday, viz: "What day should be made the order to the Committee of the Whole to consider the bill laying a tax of ten dollars upon every slave imported into the United States."

Mr. LOWNDES moved that the further consideration of the bill should be postponed till the first Monday in December.

Mr. LOWNDES.—In moving a postponement of the bill to the first Monday in December next, my object is to get rid of it altogether. Gentlemen have supported the resolution upon which this bill is founded, upon such a variety of, and contradictory grounds, that their arguments are not very susceptible of a reply. I am, however, very

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glad that it has been conceded by every gentleman who has spoken upon the subject, that this tax, if laid, would not have the effect of diminishing the number of Africans imported into the country. When it was admitted that the object for which the resolution was avowedly brought forward, would not be obtained, I did hope that the resolution itself would not have been persevered in. The gentleman from Pennsylvania, (Mr. GREGG,) to whose arguments I generally listen with pleasure, has told us that he would not for the world give his vote for this tax, for the purpose of raising revenue; but that he would be obliged to vote for the resolution, to show his disapprobation of the trade. The gentleman did, however, manifest a disposition to get rid of the question, without taking a direct vote upon it. Another gentleman from Pennsylvania (Mr. SMILE) has told us, that he too is averse to this tax with a view to revenue, but that he must vote for it, for if he does not, it will be an admission, on his part, that Congress is favorable to the trade. What am I to infer from this observation? Am I to infer that Congress until this time has been favorable to the trade; and am I to infer that the gentleman himself, who has for so long a time been an active member of Congress, has also been favorable to it? This trade has from the adoption of the Constitution until a few years ago, when it was first prohibited by Georgia, been carried on; and yet Congress have never exercised their power of imposing any tax, nor have I heard that the gentleman did ever bring forward a resolution for the purpose. Upon many topics a difference of opinion must be expected to exist; but I cannot help expressing my surprise that gentlemen should advocate a tax, which they admit will not have the effect of a restraint, upon the principle that it is a legislative discountenance of the trade. This is a commercial as well as agricultural country, and we have ever estimated the national prosperity by the extent of the revenue. From imposts on importation is derived the whole revenue of the United States. Will the gentleman then, say, that the impost on foreign merchandise, or the produce of the West Indies, is a discouragement of the trade with the places from whence they are brought? I imagine he will not. And with as little reason can it be said that the tax upon slaves is a discouragement of the slave trade.—When a Government, by laying taxes, derives a revenue from a trade, and by that means participates in the profits and gains of it, it is in my opinion giving an approbation of it. Another gentleman from Pennsylvania (Mr. LUCAS) has strenuously contended for the imposition of this tax; and, to do him justice, he has been consistent throughout his argument. Revenue is his object, and he has told you that a great amount will be produced by this tax. It doubtless will produce considerable revenue; and in proportion to it, ought, in my opinion, to be the aversion of those who are inimical to the trade. I will repeat, sir, what I said on a former debate, that there are in the Southern States many persons who are attached to this trade, and who will yield it with reluctance.

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Their influence in the country and in this House will necessarily be greatly increased by the immense accession of territory to the westward; the cultivation of which we have been told, even in an official memoir, will require the labor of slaves. Is it then politic in the enemies of this trade, under these circumstances, to superadd to the law of the State of South Carolina, one of Congress, by which the United States will become partakers in the profits and whatever else is connected with it? I think not. And why should this tax be laid with the view of deriving revenue? The State of South Carolina pays to the Government of the United States, for her wealth, population, and extent of country, as largely as any State in the Union. If the exigencies of the country require it, I hope the people of that State will not be unwilling to pay more, but not to be subjected to a tax which will fall exclusively on her while the rest of the community will bear no part of it. This was my idea when I said it would be a tax on the agriculture of the State, and not, as the gentleman from New York represented me as saying, "that it would be a discouragement of agriculture." I do not believe the agriculture of the State would be discouraged by it. I do not believe that it would be carried on with less activity or success. But the tax, if imposed, will be partial, and therefore unjust. I do not believe that a land tax would operate as a discouragement of agriculture; but when the United States, generally, have been relieved from the payment of one, I think it highly injurious that it should be continued, in this indirect way, on the State of South Carolina. This tax will draw from the landed interest of that State a greater amount than was her proportion of the late land tax. But, say gentlemen, this is not a tax intended to be confined to any one State, but a general one upon Africans imported into the United States, and will attach upon them into whatever State they are imported. This is indeed the law, but when it is known that the State of South Carolina is the one only into which they will be imported—that in every other they are prohibited by the laws of the State—the result is too unequivocal to be denied that it is a tax exclusively falling on the State where the importation is admitted. There is another description of persons imported into the United States—I mean those bound to serve for a term of years. The comparison I admit is not analogous throughout, but it is to a certain extent. These persons are chiefly introduced into the States of Pennsylvania, and New York; none, or at least very few of them, into New England. Were it proposed to embrace them by this tax, would the representatives from those States be satisfied with the arguments that it was a tax upon merchandise, and a general one, and therefore fair? Their discernment would quickly point out to them, that whatever was the appearance, it was a tax principally falling upon those States, and they would resist. Plaster of Paris is evidently an object of merchandise, and in those districts of the country where it is found advantageous as a manure, gives immense fertility to the land; but it is only particular districts where

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it is of any utility. A tax therefore upon plaster of Paris, however general the law by which it was imposed, would be a tax upon those particular districts where it is used and would be beneficial. I should be sorry if Government availed itself of this fortuitous but fortunate circumstance for these districts, and should draw a revenue from them by an imposition of a tax upon plaster of Paris. It has been contended by some gentlemen, but very unnecessarily, that it is Constitutional to lay this tax; it never was pretended to be otherwise: the Constitution expressly gives the right, but Congress has never exercised it, nor do I see the policy or the justice of doing it at this time. It will not answer the end which was designed, for it is conceded that it will not restrain the importation, but, on the contrary, will oppose greater difficulties to the exercise of the power, when Congress shall be possessed of it, of prohibiting the trade absolutely. When the period does arrive when Congress will have the power of legislating conclusively upon this subject, and it is only four years off, something more than a law will be necessary; unless active and vigilant measures are taken to enforce it, no law will be availing. An armed force on our coasts will be necessary, to prevent the introduction of them into our country; if the law of the State had been aided by such means, the repeal which has given rise to the discussion would never have taken place.

Entertaining the opinions which I have expressed against the principle of the bill, and wishing to get rid of it in a manner most agreeable to those gentlemen who feel a difficulty of voting directly upon it, I move that the further consideration of the bill be postponed until December next.

Mr. BEDINGER said he felt the greatest veneration for the honorable mover of the resolution, as he thought it proceeded from the purest motives. But as he thought the slave trade was but little better than murder, he felt a difficulty in his mind as to the propriety of admitting one shilling of it into the Treasury of the United States, lest those traders should think themselves entitled to protection; but as the mover and many others declare their assent towards the appropriation of said tax hereafter to humane purposes, he believed he should vote for a bill, if drawn in correspondence with such principles.

Mr. FINDLEY observed that it was not his wish to go into a lengthy argument on this subject; but merely to observe that this was the first instance of a law prohibiting the importation of slaves being repealed, and that it might not be the last; and that, therefore, if the argument advanced by gentlemen was good against taking it up in the first instance, it would be equally good against taking it up in case all the States should repeal their prohibitory laws. He also wished gentlemen to consider that the friends of the motion were conscience-bound as well as they, and that they considered it a moral duty to restrain, as far as they could, the continuance of the slave trade. As, however, a question of expediency was involved in this measure, he entertained no desire to hasten its decision; on the contrary, his wish

was to allow ample time for considering its merits. He should therefore vote against the postponement to December; but would move a postponement to the 2d Monday of March, not with the view of getting rid of the subject altogether, but to allow an opportunity of considering it fully.

Mr. HUGER did not rise with the view of going into the merits of the bill, but to impress the propriety of agreeing to the postponement. It was a painful subject, which necessarily excited unpleasant feelings. He thought, if gentlemen suffered it to lay over to the next session, there was a probability that by giving the representatives of South Carolina an opportunity of returning home and expressing the sentiments of Congress, the Legislature of that State would repeal the law; whereas, should the tax be laid, it would prevent this desirable effect. Where we differ, said Mr. H., it is proper for us to accommodate—to meet each other half way.

Mr. SLOAN said a few words against the postponement.

Mr. CONRAD hoped the postponement would not be agreed to, but that the main question would be met directly. He was sorry any State was implicated in the proposed tax, but it rested with every State to pay it, or not, by allowing or prohibiting the introduction of slaves. He moved for the taking the yeas and nays.

Mr. SMILIE said he thought it incumbent on the Government of the United States to show their disapprobation of the slave trade. As to the revenue to be derived from this tax, it was no object with him; and as to checking the importation, he did not believe it would have the effect. He could, therefore, perceive but one object of this act, to wit: that the Government of the United States should express their disapprobation of the act of the Legislature of South Carolina. However, for the reasons assigned by the representatives of that State, he would agree to postpone the consideration of the bill to the second Monday of March.

Mr. LUCAS replied at some length, to the arguments in favor of the postponement.

Mr. EPPES, believing that either motion of postponement would defeat the main measure, said he should vote against both. It was not his wish to erect the Government of the United States into a national tribunal to censure the proceedings of the Legislature of South Carolina, or to wound their feelings; but he was not prepared to say that Congress, in exercising a Constitutional right, erected such a tribunal. It was in some respects immaterial whether they interfered or not, so long as the world knew that a Legislature of a respectable State, in the eighteenth century, passed an act allowing the importation of slaves. That Legislature ought not to complain if the United States availed themselves of the measure to raise revenue from it. According to the estimate of some gentlemen, there would probably be an importation of one hundred thousand in four years, which, if this tax shall be laid, will produce a revenue of a million of dollars. And yet we are entreated by the gentleman from South Carolina not to molest the trade. Mr. E. said he was not

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surprised at this anxiety, as, by gaining a delay of one year, that State might be saved from the payment of above one hundred thousand dollars.

Mr. E. said he came from a Southern country, where slaves were as much a subject of taxation as lands; and he did not know that the statute books of Virginia or South Carolina were stained by imposing taxes upon them. He believed them as fair a subject of taxation as any other species of property. He believed it as fair to lay taxes upon them as to make the poor pay a tax upon brown sugar and other articles of the first necessity. For these reasons he was against the postponement either to December or March.

Mr. R. GRISWOLD considered a postponement till December as destructive to the bill. He said he would as soon meet it on its merits, but being prepared, as far as his vote went, to reject the bill, he should vote for what he considered equivalent, a postponement to December. He did not think it proper for the House to go into the measure contemplated by the bill. There were but two principles that would justify the laying a duty on imported articles: the one to discourage the importation of particular articles, and the other with a view to revenue. As to the first principle, under the Constitution as it at present stood, Congress had no right to interfere; as the States had an undoubted right to admit the importation of slaves until the year 1808. The Constitution, on this point, had gone so far as to restrict the right of the General Government to a tax not exceeding ten dollars upon each slave imported. This would not amount to a prohibition or prevention of the importation. Congress was, therefore, precluded the right of taxing, with this view, until the year 1808. This part of the argument, on which gentlemen support the measure, must be laid, therefore, out of view. The question then recurs, whether we shall lay this tax for purposes of revenue? For one, (said Mr. G.) I am unwilling to do this. I abhor the slave trade as much as any member on this floor, and therefore I will not consent to give it a legislative sanction. For this measure will certainly be viewed in that light by the people of this country and by the civilized world. It will appear to the world that Congress are raising a revenue from a commerce in slaves. I am not for introducing such a law, calculated to have this impression, on our statute books. Were it in our power to prohibit the trade, there is not, I trust, a member on this floor that would not unite in the prohibition. But on this point our hands are tied. We can only avail ourselves of the trade as a subject of revenue. The sum likely to be raised from this tax may be as great as has been mentioned; but if the raising of it be connected with the passage of a law that recognises a traffic in human flesh, so far as fixing the price at which it may be freely carried on, will have this effect, I, for one, must protest against it.

Viewing this tax in the aspect of revenue, there does not appear to be any occasion for it. We have no report from the Secretary of the Treasury that the Treasury is deficient in receipts. For these reasons, said Mr. G., and because this sub-

ject is calculated to produce unpleasant impressions on this floor and elsewhere, I shall vote for the postponement to December.

Mr. GREGG observed, that when this subject was on a former day before the House, he assigned his reasons, at some length, in favor of a postponement. The same reasons would influence his vote this day, and he should not trouble the House with a repetition of them. He only rose to suggest to his colleague that, by attending to one consideration, he would be induced, he thought, to change his opinion, and to vote for the most distant day to which it was proposed to postpone this subject. It had been stated by a gentleman from South Carolina, and he believed correctly stated, that by the law lately passed in South Carolina, a considerable ferment had been excited in that State, and that it was probable that the Legislature would, at their next session, repeal it. If it were probable that they would repeal this law in April, it appeared to him improper to pass an act that would operate as a censure upon the conduct of that State.

Mr. ALSTON was surprised how it was that he and his worthy friend from Virginia (Mr. EPPES) differed so widely upon the present occasion, living, as it were, in the same country, and owning property of the same kind, and pursuing the same means of obtaining a living. My friend advocates the resolution for laying a tax of ten dollars on each slave imported into the United States, because a considerable revenue will be derived from such a tax; it is for that very reason that he opposed it, because he would not consent to pass a law which had for its operation a partial effect. Can it be right to pass a law which will impose a heavy tax upon one part of the community, and not a cent upon the other? No State in the Union would be affected except South Carolina. Gentlemen ought to take care how they acted towards a sister State, and a respectable one too.

Whenever a tax is to be laid by Congress, such objects of taxation should be selected as would apply generally to every part of the Union. In the present case, it was impossible that the contemplated tax would be general; for in some of the States in this Union slavery was prohibited by their constitution—they had incorporated a clause which prevented a slave from being carried into them. How then, sir, can the effect of the resolution now before you have an uniform operation, if it should be adopted, and a law passed in conformity thereto? He therefore hoped it would not obtain; at the same time he wished it to be understood that he was not friendly to the slave trade, and could the resolution now under consideration operate equally throughout the Union, he would have no objection to it. Viewing the thing, therefore, as he did, as calculated to cause discontent and uneasiness to so respectable a State as that of South Carolina, he could not but hope that however much gentlemen might be opposed to the slave trade generally, that in the present case, under all existing circumstances, they would permit it to remain as it was: perhaps South Carolina would revoke what she had done,

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and everything become quiet upon the subject before the next session of Congress. This is an extremely delicate subject, and one in which the feelings of almost the whole Southern country are always alive. Why will gentlemen choose to agitate it upon this floor? It can answer no good purpose. Those gentlemen who are not interested in this description of property ought to let us alone, and permit us to enjoy it as the necessity of the case requires.

Mr. JACKSON said, if he were of opinion that the law of South Carolina, allowing the importation of slaves, would be repealed before the occurrence of the baleful effects to be apprehended from it, he might be in favor of the proposed postponement. But, when he recollected that the gentleman (Mr. LOWMEYER) who first rose in opposition to the imposition of a tax, stated the defective measures of the United States in preventing an illicit trade from being carried on, as one of the grounds of the act of South Carolina, he was induced to believe that the Legislature of that State would not repeal a law enacted under such circumstances. The observation of the gentleman that, notwithstanding persons carrying on this traffic, when illicit, were subjected to a fine not exceeding two thousand dollars, one thousand of which were to go to the informer, and to imprisonment not exceeding two years, there were no prosecutions and no convictions, induced him (Mr. J.) to believe that the trade was favored by South Carolina, and that, of consequence, that State would not consent to repeal the law.

Mr. J. said, he was induced to view the postponement as intended entirely to defeat the object of the bill, and he should therefore vote against a postponement to any day, however near, under the hope that the session would be soon terminated. He contended that if a postponement was effected for one year, or to the first Monday in March, the effect produced would be the same—an entire frustration of the measure. He had no doubt that a delayed interposition would, by permitting, in the meantime, importations to a great extent, supersede the necessity of all interference. Before the next session, it was probable that one or two hundred thousand slaves would be introduced, or, at any rate, as many as would fully supply the market. If, therefore, it is our intention to legislate at all on this subject, let us take time by the forelock, and act now or never.

Without entering into a consideration of the arguments, urged the other day, I will advert to the argument used to-day by the gentleman from South Carolina, who compares the proposed duty to a tax on agriculture, and thence infers its impolicy. Anything which tends to depreciate the price of articles here by importations from abroad is an injury to agriculture. What will be the result of the additional importation of slaves? Our agriculture will produce beyond our necessities, and in proportion to that increase will the surplus articles raised and the price of labor be diminished. The proposed tax will repress the importation of slaves, and thus prevent, in some degree, this effect. For, if we advert to the import duties,

we shall find that when a duty is laid on a foreign article of the like description with that raised in the United States, it operates as a premium on the latter. In the same proportion will the proposed tax enhance the value of slaves at present within the United States.

Gentlemen say the proposed tax will legalize the trade, and render it the duty of the United States to protect it. This argument is conclusively answered by asking, whether any vessel sailing under the flag of the United States, and pursuing a lawful commerce, is not entitled to the protection of the Government? by asking whether a vessel sailing to the coast of Africa, and there kidnapping negroes, under the authority of a State, is not as much entitled to protection as any other vessel, however differently engaged? On this point our laws know of no distinction. All vessels, engaged in unforbidden traffic, are entitled to the same protection. So that we shall not, by imposing this tax, legalize the trade, to any further extent than it is already legalized by the existing state of things.

The gentleman from South Carolina alleges that, if this tax is contemplated to prevent the importation of slaves, it will not have the effect intended. But, although it might not have this effect, Mr. J. was anxious that Congress should oppose to it all the obstacles in their power. Believing that the interests of the United States were deeply implicated in the measure, and that if anything will induce the people of South Carolina to repeal the law, it would be an evidence of the opinion entertained respecting it by the collected representation of the nation, he should vote most cordially against the postponement.

Mr. RODNEY said, he should not have troubled the House with any remarks on the present occasion, had he not made up his mind to vote differently from the vote which he had before given. He said he had before voted against the postponement of the consideration of this subject; he should now vote in favor of a postponement; and he would, in a few words, assign his reasons. When the resolution for imposing a tax on imported slaves was first laid on the table, he was of opinion that he could not vote for it without sanctioning the practice it was meant to censure. Reflecting further, he afterwards got his own consent to vote for it. First thoughts were frequently best; we sometimes miss the mark by taking sight too long. In this instance, after a more mature consideration, his mind inclined to his original opinions, for reasons which he would assign.

It was agreed, on all hands, that the conduct of the Legislature of South Carolina was such as not to merit the disapprobation of the members of that House. On many occasions there were political dissensions within these walls. But he rejoiced that, when questions of this kind presented themselves, they were sure to find us unanimous. Inhumanity was considered as a common enemy, and so inhuman a practice was justly reprobated by all. Every gentleman from the South, as well as the East, deprecated the act and lamented its existence.

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There is one view in which the passage of this act would be extremely improper. If it were in their power to lay a duty on the importation of slaves, that would amount to a prohibition, they ought not to hesitate. But they had no such power. If we have not, said Mr. R., we ought to hesitate before we assume the moral chair, and impose upon the proceedings of an independent State, a censure, however just. If we do not possess the power, we ought to pause and consider the natural effects of the proposed measure, before we go into it. If the tax will not prohibit the trade, upon what principle can it be passed or justified? Can it be passed with the view of bringing into the public coffers a certain sum? Is it from so impure a fountain that streams are to flow to enable the Government to meet the national emergencies? If this is its object, I will put a striking case. Suppose all the expenses of the Government of the United States would be defrayed by a tax on the slave trade, would gentlemen grasp it on this account? would they agree that a nation of freemen should support their Government by a tax on slaves? Would they proclaim to the world that a free nation existed by slavery? If they would prohibit the trade by taxation, it would not be worth a cent.

Another consideration ought to have weight. It is very probable that the Legislature of South Carolina passed the law from the impulse of the moment, for it has been declared on this floor that the people of the State are not friendly to it, that it excites a feeling in the community, and that when the Representatives shall be fully apprized of the sentiments of their constituents, they will repeal the law. If we enact the bill on the table, we give it our sanction, and the opinion will go forth to that State that slaves may be rightfully imported on the payment of the tax, and this impression will undoubtedly add to the number imported. I do not know that we can act better to the Legislatures of the several States, than in the language of the poet:

"Be to their faults a little blind,  
And to their virtues very kind."

We had better, then, delay acting on this business until the general sentiment of the State shall be ascertained. If we believe, as we have reason, the general sentiment hostile to the act, let us give it an opportunity deliberately to express itself, without the infliction of a censure that, by creating irritation in the minds of her citizens, may tend to frustrate the end we all have in view. In this view, I am in favor of the postponement. No man can ascribe to me a friendship to slavery. I have been uniformly and warmly opposed to it. To blot it out of the pages of our country is one of the objects nearest my heart. In my own State I have hitherto maintained an unequal conflict on this subject. But great is the force of truth, and it will prevail. No person can abhor and detest the miserable traffic in human flesh more than I do. I hope to live to see the day, when, to use the language of an eloquent advocate, "liberty shall become commensurate with our soil. When

'we shall proclaim to every stranger and sojourner, the moment he sets his foot on American earth; the ground on which he stands is holy and consecrated by the genius of universal emancipation. No matter in what language his doom may have been pronounced; no matter what complexion, incompatible with freedom, an Indian or an African sun may have burnt upon him; no matter in what disastrous battle his liberty may have been cloven down; no matter with what solemnities he may have been devoted on the altar of slavery; the first moment he touches the sacred soil of America, the altar and the god shall sink together in the dust; his soul shall walk abroad in her own majesty; his body shall swell beyond the measure of his chains, which burst from around him, and he shall stand redeemed, regenerated, and disenthralled by the great genius of universal emancipation."

But it is impossible, with our limited powers, by a mighty fiat of legislation, to effect this great object. I am unwilling, therefore, to legislate unless we can legislate with effect. I trust, then, we shall agree to the postponement, and thereby give to the freemen of South Carolina an opportunity of expressing their deliberate opinion on the act recently passed by the Legislature, and which, I trust for the honor of the State, will occasion its repeal.

Mr. ELMER considered the question of postponement as that which, in its decision, would determine the passage of the bill. He believed that the principle of the bill was predicated on a sound principle of morality and political economy. He was sorry that existing circumstances brought before Congress a question of this kind, calculated to affect the feelings of gentlemen who represented some of the Southern States; but, being brought up, it ought to be met fairly and fully. If the proposed measure is not bottomed on sound political principles, it ought to be rejected; but, if it is so bottomed, it ought to pass.

Mr. E. did not see that this measure had any pointed relation to South Carolina in particular. If agreed to, it will only appear that Congress are hostile to the importation of slaves, and have, therefore, passed a law laying the only imposition on them authorized by the Constitution. It was generally understood to be the sense of the people of the United States, that the importation of slaves was improper. But, in the formation of the Constitution, the States had reserved to themselves the right of importation until the year 1808. They have, therefore, at present, the clear Constitutional right to import them. But the Constitution has given to the Government of the United States another right; that of taxing the slaves imported, to a certain amount. It declares that the General Government shall not prohibit the importation of slaves, but that it may benefit the Treasury by taxing them.

Mr. E. said he considered it a sound principle of finance to tax those articles whose importation operated most injuriously to society. In this view, slaves were the fairest subject of taxation. On these articles, as on others, those who use them

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will pay the tax imposed. To him it was strange reasoning to say, because a tax of ten dollars will not entirely prohibit the importation, it will therefore not decrease it. He, on the contrary, verily believed that fewer ships would be fitted out for carrying on this traffic, after the passage of this law, than are at present. Those who carry on the trade will calculate their profits, which will be diminished by as much as the tax amounts to; which will, to its extent, operate as a discouragement to the trade. If a tax of two hundred dollars would prohibit the trade altogether, it may be fairly inferred that, under a tax of ten dollars, not more than nineteen twentieths of the number that would otherwise be imported will be introduced, and perhaps a lesser number.

Mr. E. could not see the least impropriety in the proposed tax, on national principles. It is alleged that its operation will be partial. It was unnecessary to inquire in what parts of the Union the objects of this tax principally existed. Wherever they are found advantageous they will exist; it is, besides, in the power of any State, feeling a repugnance to the tax, to get rid of it by disallowing the importation.

For these reasons, and for others already urged, Mr. E. said he should vote against the postponement.

After a few additional remarks from several gentlemen, the question was taken by yeas and nays on a postponement to the first Monday in December, and passed in the negative—yeas 55, nays 62, as follows:

YEAS—Willis Alston, jun., Nathaniel Alexander, Silas Betton, William Blackledge, Walter Bowie, John Boyle, William Butler, George W. Campbell, John Campbell, Levi Casey, Martin Chittenden, Thos. Claiborne, Joseph Clay, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, William Eustis, John Fowler, Edwin Gray, Andrew Gregg, Samuel Hammond, Wade Hampton, Seth Hastings, James Holland, Benjamin Huger, Walter Jones, Michael Leib, Thos. Lewis, Thomas Lowndes, Matthew Lyon, Andrew McCord, David Meriwether, Nahum Mitchell, Thomas Moore, John Randolph, John Rhea of Tennessee, Caesar A. Rodney, Thomas Sandford, Tompson J. Skinner, John Cotton Smith, James Stephenson, Samuel Taggart, Samuel Tenney, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Richard Winn, and Thomas Wynn.

NAYS—Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Robert Brown, Joseph Bryan, William Chamberlin, Clifton Claggett, Matthew Clay, Frederick Conrad, Ebenezer Elmer, John W. Eppes, William Findley, James Gillespie, Peterson Goodwyn, Thomas Griffin, Gaylord Griswold, John A. Hanna, William Helms, William Hoge, David Holmes, David Hough, John G. Jackson, William Kennedy, Nehemiah Knight, Joseph Lewis, junior, Henry W. Livingston, John B. C. Lucas, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, James Mott, Anthony New, Thomas Newton, junior, Gideon Olin, Oliver Phelps, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Erastus Root, Thomas Sammons, Joshua

Sands, Ebenezer Seaver, James Sloan, John Smilie, John Smith of New York, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, and Joseph Winston.

Mr. FINDLEY moved a postponement to the second Monday in March; which, after some debate, prevailed—ayes 56, noes 50.

[To prevent an erroneous impression being made on the public by the above proceedings, it is proper to remark that, during the whole discussion, not a single voice was raised in defence of the act of the Legislature of South Carolina, allowing the importation of slaves; but that, on the contrary, while by some of the speakers its immorality and impolicy were severely censured, by all its existence was deprecated. A large number of those who voted for the postponement, advocated it on the express and sole ground that it would give the Legislature of South Carolina an opportunity, which they believed would be embraced, to repeal the act.]

SATURDAY, February 18.

Mr. EPPES offered the following resolution:

*Resolved*, That a committee be appointed to inquire whether the moneys drawn from the Treasury of the United States on account of the Marine Corps, from the year 1798 to the end of the year 1803, have been faithfully applied to the public service, in conformity to existing laws.

The resolution was immediately taken up, agreed to, and referred to Messrs. EPPES, SANDS, McCREERY, LEIB, and BOYLE.

Mr. MOORE offered a resolution instructing the Committee of Commerce and Manufactures to inquire into the expediency of authorizing the President of the United States to employ persons to explore such parts of the province of Louisiana as he may think proper; and to report their opinion thereupon to the House.

Mr. M. said, it was scarcely necessary to make any remarks on the object of this resolution. The Government were not in possession of a good geographical description of Louisiana, which it was very desirable that they should possess, inasmuch as its limits were not completely designated in the articles of cession, and as the time might not, perhaps, be distant, when its boundaries may be a subject of negotiation between the former owners of the province and the United States.

The resolution was agreed to—ayes 53.

Mr. MITCHELL, from the Committee of Commerce and Manufactures, made a report on the subject of laying duties for the support of light-houses.

The report is accompanied with several documents, and concludes with a resolution that a duty of forty cents a ton be laid on foreign vessels entering the ports of the United States, for the support of light-houses.

The House took up the report of the Committee of the Whole on the bill making provision for



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persons disabled by known wounds received during the Revolutionary war.

Mr. ELLIOT moved the following amendment, which was agreed to without a division :

"And also all those persons who, in consequence of known wounds received in the actual service of the United States, during the Revolutionary war, have, at any period since, become disabled in such manner as to render them unable to procure a subsistence by manual labor."

The further consideration of the bill was then postponed to Tuesday next.

A message was received from the Senate stating that they had passed a bill relating to the recording and registering vessels in the district of New Orleans.

The bill allows all the inhabitants of Louisiana, on the 30th of April last, to obtain registers.—Referred to a Committee of the Whole on Monday.

On motion of Mr. LEIB,  
*Resolved*, That it is expedient to abolish the office of Lieutenant Colonel Commandant of the Marine Corps.

*Ordered*, That a bill or bills be brought in, pursuant to the said resolution; and that Mr. LEIB, Mr. LEMUEL WILLIAMS, and Mr. JACKSON, do prepare and bring in the same.

#### PUBLIC LANDS.

Mr. LATIMORE, after some preliminary observations, offered the following resolution; which was agreed to :

"*Resolved*, That the committee who was directed to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States, be directed to inquire—

"Whether any, and, if any, what additional compensation ought to be allowed to the several officers appointed under the act, entitled 'An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee';

"Whether any, and, if any, what additional allowance ought to be made for the expense of surveying the lands in the Mississippi Territory;

"Whether any, and, if any, what alterations ought to be made in such parts of the act aforesaid as provide for laying out the public lands in the said Territory into townships and sections, and for disposing of the same agreeably to that plan;

"Whether any, and, if any, what reduction in the price and quantity of land ought to be made in favor of those settlers who hold, under the third section of the said act, a right of pre-emption only;

"Whether any, and, if any, what further time ought to be allowed for laying in of claims before the registers of the land offices in the Territory aforementioned;

"Whether it be expedient to exempt from a re-survey such tracts of land as are held by titles legally and fully executed; and likewise such tracts, the quantities of which are already ascertained, and the titles to which are confirmed by the act aforesaid; and

"Whether an act of Congress be necessary to legalize the proceedings of the commissioners for the district east of Pearl river, in consequence of their not having met on or before the first day of December last, agreeably to the sixth section of the act abovementioned."

MONDAY, February 20.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof;" to which they desire the concurrence of this House.

The said bill was read twice, and committed to a Committee of the Whole House on Wednesday next.

A memorial of William Eaton was presented to the House and read, stating that, during his residence at Tunis, in Barbary, as Consul and Agent of the United States, he incurred certain expenses which are deemed not to come within Executive discretion; that he has also received, in his capacity aforesaid, from the King of Denmark, "a token of satisfaction," for services rendered to subjects of Denmark, and praying that Congress will indemnify his said expenses, and decide upon the Constitutional propriety of his retaining "the token of satisfaction," aforesaid. Referred to the Committee of Claims.

A memorial of sundry merchants of the city of New Orleans, in the province of Louisiana, was presented to the House and read, stating the great inconveniences under which they labor, through the want of an extension to them of the laws of the United States; that they are yet subject to duties on their exports and imports, according to the Spanish tariff; and that for want of proper documents to navigate with, their ships and vessels are laid up in a perishing state; and praying that Congress will make provision for their relief in the premises.

*Ordered*, That the said memorial be referred to the Committee of the Whole to whom was committed, on the eighteenth instant, the bill sent from the Senate, entitled "An act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans."

Mr. LEIB, from the committee appointed on the eighteenth instant, presented a bill to repeal the act fixing the rank and pay of the commanding officer of the Corps of Marines; which was read twice, and committed to a Committee of the Whole House to-morrow.

The House resolved itself into a Committee of the Whole on the bill to authorize the courts of the United States to appoint commissioners to take depositions of witnesses out of court, to administer oaths to appraisers, and for other purposes. The bill was reported with an amendment; which was read twice, and agreed to by the House.

*Ordered* That the said bill, together with the amendment, be engrossed, and read the third time to-morrow.

*Resolved*, That a committee be appointed to inquire whether any, and, if any, what, alteration ought to be made in the times of holding the district court in the State of Rhode Island; and that they report by bill, or otherwise.

*Ordered*, That Mr. STANTON, Mr. CUTLER, and Mr. THOMPSON, be appointed a committee, pursuant to the said resolution.

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Mr. NEWTON, from the committee appointed on the seventeenth instant, presented a bill altering the days of session of the district court for the district of Virginia; which was read twice and committed to a Committee of the Whole on Monday next.

Mr. THOMAS, from the joint committee of the two Houses, made a report, specifying the business, in their opinion, necessary to be transacted the present session, and concluding with a resolution that it be closed the 12th of March.

Messrs. HUGER and VARNUM advocated an immediate agreement to the report; and Messrs. NICHOLSON, LEIB, SMILIE, FINDLEY, and S. L. MITCHILL supported a postponement.

The motion to postpone its consideration to Friday was agreed to—yeas 56, nays 49.

Mr. SAMUEL L. MITCHILL, from the committee appointed, presented a bill to provide for light-houses and buoys in the cases therein mentioned, and to establish the district of Saint Mary's for that of Nanjemoy; which was read twice and committed to a Committee of the Whole on Monday next.

#### GEORGIA CLAIMS.

Mr. J. RANDOLPH said, the House would recollect that he had, on a former day, offered a resolution barring any claims derived under any act of the State of Georgia passed in the year 1795, in relation to lands ceded to the United States. It was not his purpose in rising at this time to trespass on the patience of the House; nor did he know that he should in future offer any remarks additional to those he had already made. But he conceived it his duty to place the subject in such a point of light that every eye, however dim, might distinctly see its true merits. For this purpose he withdrew the resolution which he had before offered, and moved the following resolutions:

*Resolved*, That the Legislature of the State of Georgia were, at no time, invested with the power of alienating the right of soil possessed by the good people of that State in and to the vacant territory of the same, but in a rightful manner, and for the public good:

That, when the governors of any people shall have betrayed the confidence reposed in them, and shall have exercised that authority with which they have been clothed for the general welfare, to promote their own private ends, under the basest motives, and to the public detriment, it is the inalienable right of a people, so circumstanced, to revoke the authority thus abused, to resume the rights thus attempted to be bartered, and to abrogate the act thus endeavoring to betray them:

That it is in evidence to this House, that the act of the Legislature of Georgia, passed on the seventh of January, one thousand seven hundred and ninety-five, entitled "An act for appropriating a part of the unlocated territory of this State, for the payment of the late State troops, and for other purposes," was passed by persons under the influence of gross and palpable corruption, practised by the grantees of the lands attempted to be alienated by the aforesaid act, tending to enrich and aggrandize, to a degree almost incalculable, a few individuals, and ruinous to the public interest:

That the good people of Georgia, impressed with general indignation at this act of atrocious perfidy and unparalleled corruption, with a promptitude of

decision highly honorable to their character, did, by the act of a subsequent Legislature, passed on the thirteenth of February, one thousand seven hundred and ninety-six, under circumstances of peculiar solemnity, and finally sanctioned by the people, who have subsequently ingrafted it on their constitution, declare the preceding act, and the grants made under it, in themselves null and void; that the said act should be expunged from the records of the State, and publicly burnt; which was accordingly done; provision at the same time being made for restoring the pretended purchase-money to the grantees, by whom, or by persons claiming under them, the greater part of the said purchase-money has been withdrawn from the treasury of Georgia:

That a subsequent Legislature of an individual State has an undoubted right to repeal any act of a preceding Legislature, provided such repeal be not forbidden by the constitution of such State, or of the United States:

That the aforesaid act of the State of Georgia, passed on the thirteenth of February, one thousand seven hundred and ninety-six, was forbidden neither by the constitution of that State, nor by that of the United States:

That the claims of persons derived under the aforesaid act of the seventh of January, one thousand seven hundred and ninety-five, are recognised neither by any compact between the United States and the State of Georgia, nor by any act of the Federal Government: Therefore,

*Resolved*, That no part of the five millions of acres reserved for satisfying and quieting claims to the lands ceded by the State of Georgia to the United States, and appropriated by the act of Congress passed at their last session, shall be appropriated to quiet or compensate any claims derived under any act, or pretended act, of the State of Georgia, passed, or alleged to be passed, during the year one thousand seven hundred and ninety-five.

On considering the resolutions, the House divided—ayes 53. Carried.

Mr. J. RANDOLPH then moved their reference to the Committee of the Whole on the bill providing for the settlement of sundry claims to public lands lying south of the State of Tennessee. Carried—yeas 50, nays 30.

#### INDIANA TERRITORY.

The House went into a Committee of the Whole on the report of a select committee on the bill from the Senate, to divide the Indiana Territory into two separate Governments. The report, for the reasons assigned, recommends a rejection of the bill.

The report was supported by Messrs. GREGG and LYON, principally on the ground that the population around Detroit was too small to justify the expenses attending a separate Territorial Government; and on the ground that if the advantages derived from a separate Government were conferred on them, they might, and would be claimed, with equal justice, by several detached settlements in the Mississippi and Louisiana Territories.

The report was opposed by Messrs. LUCAS, JACKSON, SLOAN, and MORROW, on a variety of grounds. They contended that equal justice was due to every member of the American community,

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*Indiana Territory.*

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and that of course, however small the population, it was entitled to the same protection with a community composed of larger numbers; that the distance of this population from St. Vincennes was so great as to deprive them of the benefits resulting from the administration of justice; that Michilimackinac, which exported produce valued at above \$200,000, and from whose imports the United States derived a revenue of \$17,000 was more than eight hundred miles from the present seat of Government.

The question being put on agreeing to the report, it passed in the negative—yeas 34.

When the bill from the Senate was read, and so amended as to designate the new Territory by the name of Michigan, instead of Northwestern Territory; and the Committee rose and reported the bill, which was ordered by the House to a third reading to-morrow.

#### THURSDAY, February 21.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to an act, entitled 'An act to incorporate the inhabitants of the city of Washington, in the District of Columbia,'" with several amendments; to which they desire the concurrence of this House. The Senate have passed a bill, entitled "An act to ascertain the boundary of the lands reserved by the State of Virginia, northwest of the river Ohio, for the satisfaction of her officers and soldiers on Continental establishment, and to limit the period for locating the said lands;" also, a bill, entitled "An act to erect a light-house on the south end of St. Simon's Island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar;" to which bills, respectively, the Senate desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," was read twice and committed to the Committee of Commerce and Manufactures.

The bill sent from the Senate, entitled "An act to ascertain the boundary of the lands reserved by the State of Virginia, northwest of the river Ohio, for the satisfaction of her officers and soldiers on Continental establishment and to limit the period for locating the said lands," was read twice and committed to a Committee of the Whole on Friday next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act supplementary to an act, entitled 'An act to incorporate the inhabitants of the city of Washington, in the District of Columbia,'" Whereupon,

*Ordered*, That the said bill, together with the amendments, be committed to Mr. NICHOLSON, Mr. JOSEPH LEWIS JR., and Mr. ELLIOT.

#### INDIANA TERRITORY.

A bill to divide the Indiana Territory into two separate governments was read the third time.

Mr. HOLLAND moved to postpone its further consideration until the first Monday in November next.

This motion was supported by Messrs. HOLLAND, SANDFORD, and S. L. MITCHELL, and opposed by Messrs. MORROW and SLOAN; and was disagreed to—yeas 56, nays 62, as follows:

YEAS—John Archer, David Bard, Phaniel Bishop, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John B. Earle, Ebenezer Elmer, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Thomas Griffin, Samuel Hammond, Josiah Hasbrouck, Joseph Heister, William Helms, James Holland, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, James Mott, Anthony New, Gideon Olin, Beriah Palmer, Samuel D. Purviance, John Randolph, Thomas M. Randolph, Jacob Richards, Thomas Sandford, Ebenezer Seaver, John Smilie, Henry Southard, Richard Stanford, John Trigg, Philip Van Cortlandt, Daniel C. Verplanck, Richard Winn, Joseph Winston, and Thomas Wynns.

NAYS—Willis Alston, jun., Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, William Blackledge, John Boyle, George W. Campbell, Levi Casey, Joseph Clay, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, Peter Early, James Elliot, John W. Eppes, William Eustis, John Fowler, Gaylord Griswold, Roger Griswold, Wade Hampton, John A. Hanna, Seth Hastings, William Hoge, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, William Kennedy, Henry W. Livingston, Andrew McCord, Nahum Mitchell, Thomas Moore, Jeremiah Morrow, Joseph H. Nicholson, Oliver Phelps, Thomas Plater, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Cæsar A. Rodney, James Sloan, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas Philip R. Thompson, Killian K. Van Rensselaer, Joseph B. Varnum, Matthew Walton, Lemuel Williams, and Marmaduke Williams.

The question was then taken on the passage of the bill, and passed in the negative—yeas 58, nays 59.

The bill is therefore lost.

The House went into Committee of the Whole on the bill making appropriations for the support of Government for the year 1804. Mr. LEIB moved to strike out the appropriation of \$11,885 for fifteen per cent. compensation to clerks, additional to that allowed by the act to regulate and fix the compensation of clerks.

Mr. J. RANDOLPH opposed the motion; which was agreed to—yeas 42, nays 36.

The Committee, having filled the respective blanks, reported the bill. The House negatived the amendment of Mr. LEIB, respecting compensation to clerks—yeas 42, nays 46—and reinstated the appropriation struck out in committee. The bill was then ordered to be engrossed for a third reading to-morrow.

On motion, the House adjourned.

H. OF R.

District of Orleans.

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WEDNESDAY, February 22.

Mr. NICHOLSON, from the committee appointed on the twenty-second of November last, who were directed by a resolution of this House of the twenty-fourth of the same month "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," made a farther report, in part, thereon; which was read, and committed to the Committee of the whole House to whom is committed a farther report, in part, of the same committee, made on the twenty-seventh of January last.

Mr. JOHN C. SMITH, from the Committee of Claims, presented a bill to revive and continue in force an act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" which was read twice and committed to a Committee of the Whole to-morrow.

Mr. STANTON, from the committee appointed, presented a bill, to alter the time of holding the district court in the State of Rhode Island; which was read twice and committed to the Committee of the Whole to whom was committed, on the 20th instant, the bill altering the days of session of the district court for the district of Virginia.

An engrossed bill making appropriations for the support of Government for the year one thousand eight hundred and four, was read the third time and passed.

*Resolved*, That the committee to whom were referred a petition of the inhabitants of the district of Washington, in the Mississippi Territory, and a memorial of the House of Representatives of the said Territory, relative to the establishment of a separate government for that district, or the appointment of judges to reside therein, be directed to inquire whether it will be necessary to extend Federal jurisdiction to the ordinary courts, or to courts to be organized for that special purpose in the aforesaid Mississippi Territory.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, who were directed, by a resolution of this House, of the tenth of November last, "to inquire into the expediency of exempting pilots from paying hospital money for their apprentices, made a report thereon; which was read, and considered: Whereupon,

*Resolved*, That it is inexpedient for Congress to make any declaration concerning the payment of hospital money, for pilots, for their apprentices.

Mr. CONRAD, from the committee to whom were referred, on the twenty-third ultimo, sundry letters of the same tenor, written in the German language, and addressed to "The General Congress of the North American Free States," from the Council of Directors of the city of Memel, in the Province of East Prussia," made a report thereon; which was read and considered.

*Resolved*, That the said letters be transmitted by the SPEAKER of the House to the Secretary of State, with a request that he cause them to be transmitted to the Prussian Consul at Charleston, in the State of South Carolina.

The House went into a Committee of the Whole on the bill to authorize the payment of

drawbacks on goods exported from the places therein mentioned.

Mr. RODNEY moved a new section to the bill placing goods, wares, and merchandise, imported into the district of Delaware on the same footing as to the receipt of drawbacks on exportation to any foreign country, after having been conveyed by land, with those imported into the district of Philadelphia, New York, or Baltimore.

Mr. EUSTIS opposed, and Mr. RODNEY replied.—Carried.

When the Committee rose, and the House ordered the bill to a third reading.

A Message was received from the President of the United States, communicating a report of the Surveyor of the Public Buildings of Washington.—The Message was read, and, together with the report, referred to Mr. THOMPSON, Mr. SMILIE, Mr. HUGER, Mr. JOHN CAMPBELL, and Mr. CUTTS; to examine and report their opinion thereupon to the House.

Mr. NICHOLSON, from the select committee to whom were referred the amendments of the Senate to the bill supplementary to the act to incorporate the inhabitants of the City of Washington, reported a recommendation to agree to the same.

On agreeing to the first amendment, extending the duration of the incorporation to fifteen years, instead of five, the House divided—yeas 51, nays 35; Messrs. SOUTHARD, NICHOLSON, and S. L. MITCHILL, having previously spoken in favor of agreeing to it.

The other amendments were then agreed to without a division.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to amend the charter of Alexandria," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the last mentioned bill; and the said amendments being twice read, were agreed to by the House.

#### DISTRICT OF ORLEANS.

The House went into a Committee of the Whole on the bill from the Senate providing for the recording, registering, and enrolling, ships or vessels in the District of Orleans.

The bill authorizes the inhabitants of Louisiana on the 30th of April, and the citizens of the United States residing therein, to register their vessels.

Mr. R. GRISWOLD moved to strike out that part of the provision that extends the right of registry to citizens of the United States.

This motion was advocated by Messrs. R. GRISWOLD and SLOAN; and opposed by Messrs. NICHOLSON, EUSTIS, and RODNEY, and was agreed to—yeas 48, nays 39. On which the Committee rose and reported the bill.

On concurring with the vote of the Committee of the Whole on the amendment of Mr. R. GRISWOLD, a short debate, though of greater length than that which preceded ensued, in which the amendment was supported by Messrs. R. GRISWOLD, and DANA; and opposed by Messrs. G. W.

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CAMPBELL, J. CLAY, NICHOLSON, and VARNUM; when the question was put and the House negatived, by yeas and nays, the amendment—yeas 31, nays 78, as follows:

YEAS—Simeon Baldwin, Silas Betton, William Blackledge, Adam Boyd, William Chamberlin, Clifton Claggett, Frederick Conrad, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, William Eustis, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, Benjamin Huger, Samuel Hunt, Henry W. Livingston, Thomas Lowndes, James Mott, Thomas Plater, James Sloan, John Cotton Smith, William Stedman, John Stewart, Samuel Taggart, Samuel Tenney, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Jacob Crowninshield, Richard Cutts, William Dickson, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, John Fowler, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jr., John B. C. Lucas, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, Marmaduke Williams, Richard Winn, Joseph Winston, and Thomas Wynns.

By the advocates of the amendment it was contended, that however proper it might be, according to the stipulations of treaty, to extend the right of registering their vessels to the inhabitants of Louisiana, at the time of the cession, it was neither just nor obligatory upon Congress to extend this right to citizens of the United States in the ceded territory, while the like right, under similar circumstances, was refused to citizens in the Atlantic States. This was unjust, as it would enable citizens of Louisiana to naturalize foreign bottoms which they might have purchased on speculation, and to trade with them, not only in the ports of Louisiana, but also in the ports of the United States—thereby affecting the rights of those who, under the existing navigation system, had obtained registers.

On the other hand, the opponents of the amendment declared their conviction that it became the Government to place the citizens of the United States on an equal footing with the inhabitants of Louisiana, and that the denial of rights to which they conceived themselves entitled, would sow much dissatisfaction among them. It was observed that the citizens who had gone to Louisiana must have had in view their becoming inhab-

itants, and would therefore feel themselves aggrieved in being denied the rights extended to the inhabitants; and that the situation of citizens owning Spanish or French bottoms, previous to the cession, if inhibited from registering them, would be peculiarly hard, as great doubts were entertained whether those vessels did not, together with the ceded country, lose their national character; and if that was the fact, (and it was believed to be so,) such bottoms would be divested of all the advantages and immunities of American, Spanish, and French bottoms.

On motion of Mr. MOTT, the words "thirtieth of April," were substituted in the room of "twentieth of December," his object being to place the citizens and inhabitants on the same footing. Adopted—yeas 45, nays 36; and the bill was ordered to a third reading to-morrow.

#### NAVAL PEACE ESTABLISHMENT.

The House went into Committee of the Whole on the bill supplementary to an act providing for a Naval Peace Establishment.

[This is the bill introduced at the instance of Mr. NICHOLSON, with a view to a more economical and beneficial arrangement in relation to the national ships laid up in ordinary.]

Mr. LEIB moved an additional section, virtually abolishing the office of Lieutenant Colonel Commandant of the Marine Corps, and authorizing the President to make such other reductions of the subordinate officers as he may think fit. The object of the bill being a reform of the expenses attending the Naval Establishment, the measure contemplated in the amendment was, in his opinion, a very proper one to be answered by it. The bill, he said, contemplated an annual saving, in the single article of provisions, of \$7,000. By abolishing the office of Lieutenant Colonel Commandant, a saving of sixty thousand dollars in addition might be made. This officer made, it appeared, all the contracts, and it would be seen by documents before the House, that while the price of the ration in the War Department was fifteen cents, that fixed by this officer was twenty cents—the difference made the sum of \$3,750 a year. It would also be seen that exorbitant sums were expended in postage and fuel. In the single article of postage, \$150 had been expended within three months. The amendment was then agreed to—yeas 62.

Mr. EUSTIS moved a new section, for the allowance to captains, holding themselves in readiness to enter the service, the same rations they are entitled by law to receive when in actual service. Disagreed to—yeas 37, nays 45.

The Committee rose, and the House agreed to the amendment of Mr. LEIB without a division.

Mr. JACKSON moved a new section, for the allowance to captains, required to hold themselves in readiness for service, of the same rations they are entitled to receive when in actual service.

Mr. NICHOLSON supported the amendment, to which the House agreed—yeas 44, nays 40; when the bill was ordered to a third reading to-morrow.

On motion, the House adjourned.

H. OF R.

Naval Peace Establishment.

FEBRUARY, 1804.

THURSDAY, February 23.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of Samuel Corp," with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said amendment of the Senate; and the same being twice read, was agreed to by the House.

A message from the Senate informed the House that the Senate disagree to the first amendment, and agree to all the other amendments proposed by this House to the bill, sent from the Senate, entitled "An act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans."

The House resolved itself into a Committee of the whole House on the report of the committee of the twenty-fifth ultimo, to whom were referred the petitions of the Legislative Council and House of Representatives of the Mississippi Territory of the United States; and of sundry residents and claimants of lands on the Alabama river, and on the east side of the river and bay of Mobile, in the said Mississippi Territory; and, after some time spent therein, the Committee rose and reported two resolutions thereupon; which were twice read, and agreed to by the House as follows:

*Resolved*, That so much of the eighth section of the act passed at the last session of Congress, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," as provides that no certificate shall be granted for lands lying east of the Tombigbee river," ought to be repealed: *Provided*, That no certificate shall be granted for any lands to which the Indian title has not been extinguished.

*Resolved*, That the Commissioners appointed in pursuance of an act passed at the last session of Congress, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee," be authorized and required to make, on or before the first day of December next, a full report, to the Secretary of the Treasury, of all claims that may be laid before them for lands held by warrant of survey and improvement, in cases where the claimants were minors, and not heads of families, at the time such warrants were issued, with the circumstances which occasioned the issuing of such warrants, and the validity which has been considered as attached to them.

*Ordered*, That a bill or bills be brought in pursuant to the said resolutions; and that Messrs. LATTIMORE, NICHOLSON, BUTLER, BALDWIN, and RHEA of Tennessee, do prepare and bring in the same.

The House proceeded to reconsider their first amendment, disagreed to by the Senate, to the bill sent from the Senate, entitled "An act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans;" and

*Resolved* That this House do recede from its said first amendment.

The House then went into Committee of the Whole on the post office bill. After making sev-

eral amendments, the Committee rose and asked leave to sit again, which was granted.

## NAVAL PEACE ESTABLISHMENT.

An engrossed bill supplementary to the act providing for a Naval Peace Establishment was read the third time.

Mr. VARNUM moved to recommit it to a Committee of the Whole, for the purpose of striking out the section allowing rations to captains ordered to hold themselves in readiness.

This motion was supported by Messrs. VARNUM, BEDINGER, SLOAN, SMILIE, HOLLAND, and ELMER, and opposed by Messrs. NICHOLSON, JACKSON, and EUSTIS.

The House went into Committee, who disagreed to the above section—yeas 55, nays 37. The bill was afterwards brought in, in an engrossed form, omitting this section, and passed—yeas 63, nays 54; as follows:

YEAS—Isaac Anderson, John Archer, George M. Bedinger, Phaniel Bishop, William Blackledge, Adam Boyd, John Boyle, Robert Brown, William Butler, Levi Casey, Martin Chittenden, Thomas Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, William Dickson, Peter Early, Ebenezer Elmer, John W. Epes, William Findley, James Gillespie, Peterson Goodwyn, Edwin Gray, Andrew Gregg, Josiah Hasbrouck, Joseph Heister, William Hoge, James Holland William Kennedy, Nehemiah Knight, Michael Leib, Henry W. Livingston, Andrew McCord, David Meriwether, Thomas Moore, Anthony New, Gideon Olin, Beriah Palmer, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, Jos. Winston, and Thomas Wynns.

NAYS—Willis Alston, jr., Simeon Baldwin, David Bard, Silas Betton, Joseph Bryan, John Campbell, William Chamberlin, Clifton Clagett, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dawson, Thomas Dwight, John B. Earle, James Elliot, William Eustis, John Fowler, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, Seth Hastings, William Helms, David Holmes, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Walter Jones, Thomas Lowndes, John B. C. Lucas, Matthew Lyon, William McCreery, Nahum Mitchell, Samuel L. Mitchell, James Mott, Thomas Newton, jun., Joseph H. Nicholson, Thomas Plater, Samuel D. Purviance, Thomas M. Randolph, Joshua Sands, John C. Smith, John Smith of Virginia, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, and Richard Winn.

## DISTRICT OF ORLEANS.

The bill from the Senate, entitled "An act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans," together with the amendments agreed to yesterday, was read the third time. And on the question that the same do pass, it was resolved in the affirmative—yeas 82, nays 32, as follows:

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*Virginia Contested Election.*

H. OF R.

**YEAS**—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, George M. Bedinger, Phanuel Bishop, John Boyle, Robert Brown, Joseph Bryan, William Butler, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, John W. Eppes, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Jos. Heister, William Helms, William Hoge, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Thos. Moore, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Smilie, John Smith of Va., Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, Marmaduke Williams, Joseph Winston, and Thomas Wynns.

**NAYS**—Simeon Baldwin, Silas Betton, William Blackledge, Adam Boyd, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Edwin Gray, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Joshua Sands, James Sloan, John Cotton Smith, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

FRIDAY, February 24.

Mr. NEWTON, from the committee appointed, presented a bill to authorize the Secretary of the Navy to receive proposals from the Norfolk Drawbridge Company for the purchase of a piece or parcel of the navy yard in Gosport, Virginia, belonging to the United States, and to decide on the propriety of selling the same; which was read twice, and committed to a Committee of the Whole on the first Monday in December next.

Mr. NICHOLSON, from the committee appointed on the seventeenth instant, presented a bill to authorize the District Court for the District of Columbia, to decree divorces in certain cases; which was read twice and committed to a Committee of the whole House on Monday next.

The House again resolved itself into a Committee of the Whole on the bill further to alter and establish certain post roads, and for other purposes; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed, and read the third time on Monday next.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An

act further to amend the act, entitled 'An act to lay and collect a direct tax within the United States,' with several amendments; to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill declaring the assent of Congress to an act of the General Assembly of the State of North Carolina; and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be engrossed and read the third time on Monday next.

On a motion made and seconded, that when the House adjourns, it will adjourn to meet on Monday next, the question was taken thereupon, and resolved in the affirmative—yeas 47, nays 36, as follows:

**YEAS**—Willis Alston, jr., David Bard, Adam Boyd, Joseph Bryan, George W. Campbell, Thos. Claiborne, Joseph Clay, John Dawson, William Dickson, John B. Earle, Peter Early, John W. Eppes, William Findley, John Fowler, Thomas Griffin, Samuel Hammond, James Holland, David Holmes, David Hough, Benjamin Huger, John G. Jackson, Michael Leib, Joseph Lewis, jun., John B. C. Lucas, Andrew McCord, Wm. McCreery, David Meriwether, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Samuel D. Purviance, John Rea of Pennsylvania, John Rhea of Tennessee, Thomas Sandford, James Sloan, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, James Stephenson, John Stewart, Samuel Taggart, Philip R. Thompson, Abram Trigg, Killian K. Van Rensselaer, Daniel C. Verplanck, and Peleg Wadsworth.

**NAYS**—John Archer, Geo. Michael Bedinger, Wm. Blackledge, John Boyle, Robert Brown, William Butler, Levi Casey, Clifton Claggett, Matthew Clay, John Clopton, J. Crowninshield, Ebenezer Elmer, P. Goodwyn, Andrew Gregg, Gaylord Griswold, Josiah Hasbrouck, William Hoge, William Kennedy, Henry W. Livingston, Nicholas R. Moore, Jeremiah Morrow, James Mott, Beriah Palmer, Thomas M. Randolph, Jacob Richards, Erastus Root, Thomas Sammons, J. Sands, Ebenezer Seaver, David Thomas, John Trigg, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, Joseph Winston, and Thomas Wynns.

#### CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom was referred a memorial of Andrew Moore, of Virginia, respecting the election of THOMAS LEWIS, a sitting member, made a report, which, after stating the bad votes given for each of the candidates, concludes with the opinion that THOMAS LEWIS is not, and that ANDREW MOORE is entitled to a seat in the House. The report is as follows:

"That, at an election held on three several days, in the month of April, in the year one thousand eight hundred and three, directed by the law of the State of Virginia, for a member of the House of Representatives of the United States for the district composed of the counties of Botetourt, Rockbridge, Kenawha, Greenbriar, and Monroe, in the western district of Virginia, it appears—

"That, of the polls taken in the county of Botetourt Thomas Lewis had one hundred and fifty-five votes, and Andrew Moore had three hundred and five votes,



H. OF R.

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that, out of the persons who voted for Thomas Lewis, twenty-three were unqualified to vote; and that out of the persons who voted for Andrew Moore, twenty-eight were unqualified to vote.

"That of the polls taken in Rockbridge, Thomas Lewis had sixty-five votes, and Andrew Moore had three hundred and twenty-one votes: that out of the persons who voted for Thomas Lewis, there were four persons unqualified to vote; and out of the persons who voted for Andrew Moore, there were twenty persons unqualified to vote.

"That, of the polls taken in Kenawha county, Thomas Lewis had one hundred and sixty-one votes, and Andrew Moore had one vote: that out of the persons who voted for Thomas Lewis there were ninety persons unqualified to vote.

"That, of the polls taken in Greenbriar, Thomas Lewis had five hundred and thirty-nine votes, and Andrew Moore had one hundred and three votes; that out of the persons who voted for Thomas Lewis two hundred and two were unqualified to vote; and out of the persons who voted for Andrew Moore thirty-two were unqualified to vote.

"That, of the polls taken in Monroe county, Thomas Lewis had eighty-four votes, and Andrew Moore had one hundred and two votes; that out of the persons who voted for Thomas Lewis thirty-six were unqualified to vote; and out of the persons who voted for Andrew Moore, forty-four were unqualified to vote. Hence it appears—

"That all the persons who voted for Thomas Lewis in the several counties aforesaid, which compose the western district of the State of Virginia, were one thousand and four; and that all the persons who voted for Andrew Moore in the said counties were eight hundred and thirty-two.

"It further appears, on a deliberate scrutiny, that, of the above votes, three hundred and fifty-five persons voted for Thomas Lewis who were unqualified to vote, and that one hundred and twenty-four voted for Andrew Moore who were unqualified to vote; and that, by deducting the unqualified votes from the votes given for each of the parties at the elections, Thomas Lewis has six hundred and forty-nine good votes, and Andrew Moore has seven hundred and eight good votes, being fifty-nine more than Thomas Lewis. Whereupon,

"Your committee are of opinion that Thomas Lewis, not being duly elected, is not entitled to a seat in this House; and they are further of opinion that Andrew Moore, who has the highest number of votes, after deducting the before-mentioned unqualified votes from the respective polls, is duly elected and entitled to a seat in this House."

*Ordered*, That the report be committed to a Committee of the whole House on Wednesday next.

MONDAY, February 27.

An engrossed bill further to alter and establish certain post roads, and for other purposes, was read the third time: Whereupon, a motion was made, and the question being put, that the said bill be recommitted to the consideration of a Committee of the whole House to-day, it was resolved in the affirmative.

An engrossed bill declaring the assent of Congress to an act of the General Assembly of the

State of North Carolina was read the third time, and passed.

On motion, it was

*Resolved*, That a committee be appointed to prepare and bring in a bill declaring the assent of Congress to an act of the General Assembly of Virginia, entitled "An act for improving the navigation of James River."

*Ordered*, That Messrs. EPPES, MERIWETHER, and SANDS, be appointed a committee pursuant to the said resolution.

The SPEAKER laid before the House a letter addressed to him from JOHN SMITH, one of the members of this House for the State of New York, stating that, "having been elected by the Legislature of the State of New York a Senator of the United States, he had accepted the appointment, and taken his seat in the Senate."

The said letter was read, and ordered to lie on the table.

Mr. S. L. MITCHILL, from the Committee of Commerce and Manufactures, to whom was committed, on the twenty-first instant, the bill sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," made a report thereon; which was read, and, together with the bill, ordered to be referred to a Committee of the whole House to-day.

Mr. LATTIMORE, from the committee appointed on the twenty-third instant, presented a bill supplementary to an act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" which was read twice, and committed to a Committee of the whole House to-morrow.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act further to amend the act entitled 'An act to lay and collect a direct tax within the United States.'" Whereupon,

*Resolved*, That this House do agree to the said amendments.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill for the relief of George Lee Davidson; which was read twice, and committed to a Committee of the whole House to-day.

Also, a bill making an appropriation for carrying into effect the Convention concluded between the United States and the King of Spain, on the eleventh day of August, one thousand eight hundred and two; which was read twice, and committed to a Committee of the whole House to-morrow.

The House resolved itself into a Committee of the Whole on an engrossed bill further to alter and establish certain post roads, and for other purposes; and, after some time spent therein, the bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

*Ordered*, That the said amendment be engrossed, and, together with the bill, read the third time to-day.

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*Resolved*, That JOHN SMITH, one of the Representatives from the State of New York, having accepted the appointment of Senator from that State in the Senate of the United States, has thereby vacated his seat in this House, and that the SPEAKER be requested to notify the Executive of the said State of New York accordingly.

Mr. LEIR, from the committee appointed, presented a bill to amend the charter of Georgetown; which was read twice, and committed to a Committee of the Whole on Wednesday next.

The House resolved itself into a Committee of the Whole on the bill for the relief of George Lee Davidson; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed and read the third time to-day.

Mr. ELLIOT, from the committee to whom was referred the petition of Benjamin Emmons, made the following report:

"The petitioner, in behalf of himself and sixty associates, inhabitants of the State of Vermont, prays that Congress would grant to them, for the purpose of settlement and cultivation, a tract of the territory lately acquired by the United States on the west side of the Mississippi, near the mouth of the Ohio, of six miles square, on such terms and conditions as the States composing the Union have heretofore granted their lands to settlers, or as Congress shall deem proper.

"While the committee feel no disposition to express an opinion unfavorable to the prayer of the petitioners, they believe it would be improper to grant it at the present moment. Without presuming to anticipate the course which it may be the interest and policy of the United States to pursue in the disposition of the public lands in the territories west of the Mississippi, they beg leave to recommend that the further consideration of the prayer of the said petition be postponed until the next session of Congress."

The report was agreed to.

The House went into a Committee of the Whole on the resolution of Mr. KENNEDY to lay out the money collected for the relief of seamen in the ports wherein it is collected. The Committee, after some discussion of the resolution, rose and obtained leave to sit again.

The House then went into Committee of the Whole on the report of a select committee on the memorial of Tennessee, &c., which concludes with a resolution for the appropriation of — dollars to defray such expenses as the President may sanction for holding any treaty or treaties with any nation of Indians south of the Ohio to extinguish Indian rights.

On motion of Mr. DICKSON, the blank was filled with fifteen thousand dollars.

A debate then ensued on the resolution, which was supported by Messrs. DICKSON, LYON, G. W. CAMPBELL, ALSTON, BLACKLEDGE, and HOLLAND, and opposed by Messrs. SAMUEL L. MITCHILL, R. GRISWOLD, and GREGG, when the question was taken, and the resolution negatived.

TUESDAY, February 28.

An engrossed bill further to alter and establish certain post roads, and for other purposes, with the amendment agreed to yesterday, was read the third time, and passed.

An engrossed bill for the relief of George Lee Davidson was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act for the relief of certain military pensioners in the State of South Carolina," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for the relief of certain military pensioners in the State of South Carolina." Whereupon,

*Resolved*, That this House doth agree to the said amendments.

The House, resolved itself into a Committee of the Whole on the bill to revive and continue in force an act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia;" and, after some time spent therein, the bill was reported with an amendment thereto; which was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

#### LOUISIANA TERRITORY.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof."

The fourth section being under consideration, as follows:

"SEC. 4. The Legislative powers shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed annually by the President of the United States, from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory or the United States. The Governor, by and with advice and consent of the said Legislative Council, or of a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful powers of legislation: but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall from time to time report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The Governor or Legislative Council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to land within the said Territory. The Governor shall convene and prorogue the Legislative Council, whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same, from time to time, to the President of the United States;"

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Mr. LEIB observed that he did not like the provisions of this section, and least of all that which gave the Governor the right of proroguing the Legislative Council. It appeared to him that that body was the most dependant thing of its nature in the United States; and when the power of prorogation vested in the Governor was considered, it seemed to him that the people would do much better without any such body. This was a royal appendage which he did not like. He, therefore, moved to strike out the words "and prorogue."

Mr. GREGG said he was not only in favor of the motion of his colleague, but against the section generally. It would require much further amendment to induce him to vote for it. He was opposed to the power it gave the President to appoint the members of the Legislative Council. It appeared to him a mere burlesque to say they shall be appointed by the President. How is the President to get information of the qualifications for office? This could only be obtained from the officers appointed by him, and principally from the Governor, who will not fail to recommend to the President the appointment of persons favorable to his own views. Mr. G. said that they would, therefore, rather vest the appointment of the members of the Legislative Council in the Governor; the mode pointed out in the bill was only calculated to rescue the Governor from the responsibility attached to his office, by dividing it among others. It might, perhaps, in the first institution of the government be difficult to get the Council appointed in any other way. Mr. G. said he had it in contemplation to move an amendment, which, although it would not render the section entirely agreeable to him, would so far remove the objections he entertained against it, as to induce him to vote for it. It would give the President the appointment of the Legislative Council for one year; but direct the Council during that time to lay off the district into counties, and thereupon divest the President of the power, and vest it in the white free male inhabitants of the Territory on the 30th of April last and the citizens of the United States.

[Mr. GREGG here read a section to this effect.]

By the introduction of this amendment, or of one embracing similar principles, and incorporating the amendments of his colleague, Mr. G. said he should be prevailed upon to vote for the section. It had been suggested to him by some gentlemen that it might be more agreeable to the people of Louisiana, and consonant with our plans of Territorial government, to vest the powers of a Legislative Council, for the first year, in the Governor and Judges, making it their duty to provide for the election of a Council thereafter by the people. It was also intimated that some other gentlemen had prepared different amendments as a substitute to the whole section. When he heard them read, he might, perhaps, prefer them to his own. Mr. G. concluded by moving the amendment stated above.

Mr. LEIB said his amendment did not in the least interfere with that of his colleague, with whom he fully accorded in sentiment.

Mr. VARNUM was of opinion that the section in the bill provided such a kind of Government as had never been known in the United States. He thought sound policy, no less than justice, dictated the propriety of making provision for the election of a Legislative body by the people. There was not only the common obligation of justice imposed upon Congress to do this, but they were bound by treaty. The treaty with France expressly says:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

The treaty makes it obligatory on the United States to admit the inhabitants of Louisiana, as soon as possible, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States. In order to decide the principle of this section of the bill by an expression of the sense of the Committee, he would move that the Committee should rise, report progress, and ask leave to sit again, with the view of refusing them leave, and afterwards referring the bill to a select committee to receive a modification in conformity to the opinions of the House.

Mr. HUGER trusted the Committee would not rise. He knew not the impressions on this subject on the minds of other gentlemen; but the information lately received from Louisiana convinced him of the propriety of proceeding with the bill immediately. In addition to the principles contained in the section under consideration, there were others of great importance. He thought it would be most advisable, in a future stage of discussion, to commit the bill to a select committee, if any material alterations should be made in it. It was best, at present, to deliberate fully on the several provisions of the bill, and for gentlemen to make an interchange of opinions. Were the bill now committed, the report of the committee would not advance the business in the least, as that report might be as objectionable to the House as the bill from the Senate.

Mr. ELLIOT, for like reasons assigned by the gentleman from South Carolina, and for other reasons, hoped the Committee would not rise. He did not believe the section under consideration was, in its present form, consistent either with the spirit of the Constitution or the treaty; but he believed that, by the introduction of a small amendment, the section might be rendered perfectly consistent with them, and the passage of the bill be greatly accelerated. He preferred a middle course between the existing section and the amendment offered by the gentleman from Pennsylvania. Whatever amendments were necessary would be easily offered and discussed at present; whereas no desirable object could be effected by a reference.

Mr. GREGG said it also appeared to him that no valuable purpose would be answered by referring the bill to a select committee. What can such a committee do? There exists no diversity of sen-

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timent in the House on principle. Some are for giving to the people of the Territory, instead of the President, the power of electing members of the Legislative Council. Here, then, are two distinct principles, and unless the House determine which of them it will adopt, a select committee can do nothing. Let us settle the principle of the bill first, and then refer it to a select committee, to modify it in correspondence with them.

Mr. EUSTIS said this subject was, in his opinion, inferior to no other discussed this session. With regard to the provisions of the section under consideration, it was to be expected that there would be a diversity of opinion. Gentlemen inimical to them had taken different grounds. One gentleman desires the power of the Governor to prorogue the Council to be rescinded; another gentleman wishes an entire change in the formation of the Council; and a third is in favor of the Committee rising, that the bill may go to a select committee to report different provisions for the government of the people of Louisiana from those contained in the bill before us. This motion necessarily brings the principle on which the Council is organized by the bill before us.

It is extremely difficult to form any system of government for this Territory with our ideas of civil liberty under the Constitution of the United States. It appears to me, said Mr. E., that before we determine the principle on which the Council is to be formed, it is necessary distinctly to understand the genius, the manners, the disposition, and the state of the people to be governed. The treaty has been resorted to by my colleague to show that they are entitled to elect their own Legislature. It says:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States."

Are the people of Louisiana admitted into the Union at this time, or not, with all the rights of citizens of the United States? The answer to this inquiry will lead to a right decision of the question under discussion. If they are so admitted, they are entitled to all the rights of citizens of the United States. And if they are thus entitled, there remains another inquiry: are they qualified from habit, and from the circumstances in which they are placed, to exercise these high privileges? If they are both entitled and qualified to enjoy them, we can have no hesitation in pronouncing the bill grounded on a wrong principle, that it ought to be rejected, and another bill, of a far different nature, be introduced in its room. But I do not consider the subject in this light. The people, in my opinion are at present unprepared for, and undesirous of, exercising the elective franchise. The first object of the Government is to hold the country. How? By protecting the people in all their rights, and by administering the Government in such a manner as to prevent any disagreement among them—to use no other term. Suppose the people called upon

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to choose those who are to make laws for them, does the information we possess justify the belief that this privilege would be so exercised as to conduce to the peace, happiness, and tranquillity of the country? I apprehend not. On the sentiments of the House on this point the decision of this motion must turn.

According to this bill, the Governor and Council are to make the laws. Suppose the Council is in session, and the Governor possess no power to prorogue them. Suppose they should engage in acts subversive of their relation to the United States. Would not this power be of essential utility? It appears to me indispensably necessary that a vein of authority should ascend to the Government of the United States, until the people of the Territory are admitted to the full enjoyment of State rights. From that knowledge of this people which I have been able to acquire, I have formed an opinion that authority should be constantly exercised over them, without severity, but in such a manner as to secure the rights of the United States and the peace of the country.

The government laid down in this bill is certainly a new thing in the United States; but the people of this country differ materially from the citizens of the United States. I speak of the character of the people at the present time. When they shall be better acquainted with the principles of our Government, and shall have become desirous of participating in our privileges, it will be full time to extend to them the elective franchise. Have not the House been informed from an authentic source, since the cession, that the provisions of our institutions are inapplicable to them? If so, why attempt, in pursuit of a vain theory, to extend political institutions to them for which they are not prepared? I am one of those who believe that the principles of civil liberty cannot suddenly be grafted on a people accustomed to a regimen of a directly opposite hue. The approach of such a people to liberty must be gradual. I believe them at present totally unqualified to exercise it. If this opinion be erroneous, then the principles of the bill are unfounded. If, on the contrary, this opinion is sound, it results that neither the power given to the President to appoint the members of the Council, or of the Governor to prorogue them, are unsafe or unnecessary.

The extension of the elective franchise may be considered by the people of Louisiana a burden instead of a benefit. I have understood there is none of that equality among them which exists in the United States; grades are there more highly marked, and they may deem it rather a matter of oppression to extend to them the privileges which we deem inestimable, and with the value of which we have been long familiar.

Before we decide this principle, it is absolutely necessary to consider the relation of these people to the United States. I consider them as standing in nearly the same relation to us as if they were a conquered country. By the treaty they are, it is true, entitled to the enjoyment of all the rights, advantages and immunities, of citizens of

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the United States, and to be incorporated into the Union as soon as possible, according to the principles of the Federal Constitution—but can they be admitted now? Are they at this moment so admitted? If not, they are not entitled to these rights; but if they were, I should doubt the propriety of extending them to them.

If the present provisions of the bill are carried into effect, there will be more security than will arise under the motion of my colleague. It is very natural and honorable to gentlemen of liberal minds to be desirous of extending to this people the privileges enjoyed by our own citizens; but sentiments of this kind, however liberal and praiseworthy, may be carried in the face of facts, and may operate injuriously on those they are intended to benefit. I have thrown out these sentiments for the consideration of the Committee, and if they shall determine in favor of striking out this section I shall consider the decision as equivalent to losing the bill. Upon the whole, as the bill only purports to provide for a temporary government, and as, in the course of a year we shall have more information respecting the country, when it will be in our power, in case such information shall justify it, to extend all the privileges which gentlemen seem so desirous of doing, I hope the Committee will not rise or agree to strike out this section.

Mr. LYON said when he first thought of rising on this subject, it was merely to remind the gentleman from South Carolina, (Mr. HUGER,) and the gentleman from Vermont, (Mr. ELLIOT,) that there was no need of the hurry they seemed to think necessary on this occasion, as the bill before us contains a section providing against its going into operation until October next; and to express his hope that the Committee would rise, as there were so many traits in the bill so disgusting to him that he would be willing to send it to any select committee; better it they might, but he thought they could not make it worse. Yet, after having heard the gentleman from Massachusetts advocate the principle of the section under consideration, he could not avoid making a few observations. I think, said Mr. L., that these people have a right, by nature and by treaty, to have some concern in their own government, and, although they may not be completely qualified for self-government, and we may not be willing to put them on the same footing with the people of a free and independent State, I know of no reason why they may not be allowed by their representatives to come before the Governor in an organized way with an expression of their wishes and their wants, and to propose for his adoption laws they may think fitting and salutary for their country. I am not ready to say, with the gentleman from Pennsylvania, (Mr. LEIB,) that I wish to take from the Governor the power of convening and proroguing the Legislative Council or Assembly. I am willing for the present he should have that power, as well as an unqualified negative on their bills. In that case, how can the representatives of that people injure our Government? It is the business of the Governor appointed by the

Executive of the Union to watch over them for the interest of the nation—his power will be ample for the protection of that interest. When they ask his assent to those things that are fitting and proper, he will give it, I hope; when they ask it for those things which are not fitting or proper, he will no doubt refuse it; and if they should at any time become troublesome, he will prorogue them, and tell them to go home about their business. I cannot refuse these people, the humble boon, the pitiful specimen of liberty, the laying before their Governor by their representatives, for his consent, the bills they wish passed into laws for their local accommodation, and for their satisfaction with respect to their rights and their property; neither would I mock their feelings by a Legislative Council appointed by the President of the United States. I do not believe he wishes that power. I do not think it fits his character. How is he to divine who it is best to appoint? I would as soon compliment Mr. Bonaparte with that power; I dare say he is better acquainted with the people there. But the gentleman from Massachusetts seems to think these people are not desirous of exercising the power of electing legislative representatives. If that is the case, do we not owe something on this score to principle—to consistency—to the national honor, pledged by treaty? If there is danger on that score, (which I am pretty certain there is not,) let the government be so organized that it can go on without the representatives of those districts who neglect or refuse to elect.

But the most ludicrous idea I have heard expressed on the subject is, that these people must be kept in slavery until they can be learned to think and behave like freemen. "Establish the government proposed, and let them learn under that to enjoy the rights and benefits of freemen." I wonder how much longer this probationary slavery is to last in order to bring about the purpose proposed; for my part, I believe they have had it longer than has done them any good. I really wish to know how much longer this apprenticeship is to continue, and what are the symptoms by which we are to know when slaves are fitted to become freemen. I shall, sir, eventually vote for the Committee's rising, although I am quite willing to hear what farther can be said in favor of this section.

Mr. LUCAS was against the rising of the Committee, inasmuch as the bill under consideration offered the widest field of discussing the subject before them, and inasmuch as it was proper, that the principles of it should be settled by a majority, to enable a select committee to collect the sense of the House. When this decision should have taken place, he should have no objections to a recommitment for the purpose of modifying the bill in consonance with it.

It was known, by the treaty, that the United States are bound to secure to the people of Louisiana as large a portion of liberty and security of rights, as though they remained under the Government of France and Spain; and he trusted the bill as it stood secured to them much more. As an in-

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stance, it might be mentioned that the privilege of habeas corpus had never been enjoyed by them while they were connected with either Spain or France. An argument was drawn from the treaty, that these people are to be admitted to the absolute enjoyment of the rights of citizens; but gentlemen would not deny, that the time when, and the circumstances under which this provision of the treaty was to be carried into effect, were submitted to the decision of Congress. It has been remarked, that this bill establishes elementary principles of government never previously introduced in the government of any Territory of the United States. Granting the truth of this observation, it must be allowed that the United States had never before devolved upon them, the making provision for the government of people under such circumstances. Governors must not rest on theory, but must raise their political structures on the state of the people for whom they are made. Mr. Lucas said, that without wishing to reflect on the inhabitants of Louisiana, he would say that they are not prepared for a government like that of the United States. Governed by Spanish officers, exercising authority according to their whim, supported by a military force, it could not be said that a people thus inured to despotism, were prepared on a sudden to receive the principles of our Government. It was questionable whether there was a nation in Europe whom these principles would be so advantageous to as they are to us. It would be recollected by gentlemen, who so strenuously advocated the abstract principle of right, that the people of Louisiana have not been consulted in the act of cession to this country, but had been transferred by a bargain made over their heads. It was a proof this act had not been received with approbation by them, that when they saw the American flag hoisted in the room of the French, they shed tears; this was a proof that they were not so friendly to our Government as some gentlemen imagined. He was persuaded the people of the Mississippi Territory would not have acted in this manner. There is no doubt but that after they shall have experienced the blessings of a free Government, they will wonder at their having shed tears on this occasion; but they must, in the first instance, feel these blessings.

Mr. Lucas said he was fully of opinion with the gentleman from Massachusetts (Mr. EUSTIS) in the sentiments he had expressed. The United States had it eminently in their power to make these people happy without an extension to them of all our privileges. They will not be gratified from knowing that the theory of liberty is extended to them, but from its practical effects. The people of Louisiana know but little of political theories, but they will feel the just operation of equal laws; and if they can obtain practical justice, though it may not arise from an extension of our elementary political principles, they will not find fault with it.

Mr. Lucas said he was not among those who considered the bill, in all its provisions, perfect. He considered it susceptible of much amendment; though not in the principle now under review.

In this provision, by declaring that the inhabitants of the Territory shall compose the Legislative Council, a great point is gained by the people. For it cannot be supposed that the inhabitants, thus called upon to discharge high duties to society, will so far lose sight of their own permanent interest as to sacrifice them, together with the good of the country, to whim or corruption.

Their election by the President is another important security. Suppose the Governor shall wish to render the Council his puppets. The President will not feel an interest in gratifying his improper views. It is, however, said that his information will be derived from the Governor. But, the fact is, he will receive it in part from the Governor, and in part from others; and he will be sagacious enough to judge, not from a part, but from the whole that reaches him.

A valuable effect will flow from composing the Council of the inhabitants of the country; its members will thereby be initiated in the theory of our Government and laws, and this knowledge will hereafter qualify them for higher political trusts; they will acquire much political knowledge; they will return home, and their conversation with their friends will naturally turn on political topics, and on the laws they have passed; thus will a spirit of inquiry and of political discussion spring up in the country. When this effect shall be produced, it will be time, and only then, to give them a government as liberal and free as that contemplated by the amendment.

Mr. MACON (Speaker) observed that he coincided in opinion with the gentleman from Massachusetts, (Mr. VARNUM,) whose object would, he thought, be better tried by a motion to strike out the section. This motion would bring the principle before the House. If the section should be stricken out the bill would be recommitted for new modification to a select committee. Mr. M. accordingly moved to strike out the fourth section.

This motion having been stated from the Chair, Mr. MACON again rose. I will endeavor, said he, to compress my ideas on this point in a few words. My first objection to the principle contained in the section is, that it establishes a species of government unknown to the laws of the United States. We have three descriptions of Government; that of the Union, that of the States, and Territorial governments. I believe the Territorial government, as established by the ordinance of the Old Congress, the best adapted to the circumstances of the people of Louisiana; and that it may be so modified as best to promote their convenience. The people residing in the Mississippi Territory, are now under this kind of government. Is it not likely that the people of Louisiana will expect the same form of government and laws with their neighbors; and is it not desirable for the general peace and happiness that there should be a correspondence between them? If they are as ignorant as some gentlemen represent them, (and of this I know nothing,) will they not expect the same grade of government with the inhabitants of the Mississippi Territory, with

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whom they will have a constant intercourse? Although they lived previously under the Spanish Government, and although their number did not entitle them, when formed into a Territory, to the second grade of government, no inconvenience resulted. It is said, in reply to this observation; that a large number of inhabitants of that Territory were Americans. It is true that many of them were native Americans, but some also were Spanish.

The simple question is, what kind of government is most fitted to this people? It is extremely difficult to legislate for a people with whose habits and customs we are unacquainted. I, for one, declare myself unacquainted with them; nor would I in fixing the government, unless for the safety of the Union, do an act capable of disgusting the people for whom it is adopted. It will be a wise policy to avoid whatever is calculated to disgust them. My opinion is that they will be better satisfied with an old-established form of government, than with a new one. Why? Because they have seen it established in the adjacent Territory of Mississippi, and know the manner in which it operates. If there are bad men in Louisiana, will anything be more easy than to disgust the people against the General Government by showing that they have given one kind of government to the people of the Mississippi Territory, and a different kind to them? In my mind, it is sound policy to give them no cause of complaint. We ought to show them that we consider them one people.

I will not pretend to say that the people of Louisiana are prepared for a State government, which differs most materially from a Territorial government. The best way to prepare them for such a government, is to take the system already known to our laws; one grade or the other of the Territorial government. For myself, I would prefer the adoption of the second grade, but I would prefer the first to any new system. For these reasons, I hope the section will be struck out, and the bill referred to a select committee.

Mr. G. W. CAMPBELL said he would submit a few reasons in favor of the motion to strike out the section. As the hour was late, he would endeavor to compress his observations in as narrow a compass as possible. The principal question is, whether we shall give the inhabitants of Louisiana the right of self-government, or even the hope that they will hereafter enjoy the benefits of self-government, and of those rights which there is no doubt but that they conceive themselves entitled to under the treaty with France? In examining this question, it may be proper to take a brief notice of the section proposed to be stricken out, and the degree of liberty it is calculated to give the inhabitants of Louisiana. On examining the section, it will appear that it really establishes a complete despotism; that it does not evince a single trait of liberty; that it does not confer one single right to which they are entitled under the treaty; that it does not extend to them the benefits of the Federal Constitution, or declare when, hereafter, they shall receive them. I believe it

will, on investigation, be found difficult to separate liberty from the right of self-government; and hence arises the question, now to be decided, whether we shall countenance the principle of governing by despotic systems of government, or support the principle that they are entitled to be governed by laws made by themselves, and to expect that they shall, in due time, receive all the benefits of citizens of the United States under the Constitution.

By the section all Legislative power is vested in a Governor and thirteen Counsellors, appointed by the President. The people have no share in their choice. The members of the Council are only to aid the Governor; they have no right to make laws themselves; the words of the section are:

"The Governor, by and with advice and consent of the said Legislative Council, or of a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act."

That is, the Governor makes the laws by and with the advice of the Council. They are not to deliberate on what shall be law; but he, like some ancient potentates, is to suggest to them what, in his opinion, is proper to be law. This is the proper construction of this section, or I do not understand it. "He is to make," &c. They are not to make the laws, and submit them to him for his approbation. He makes them, and asks his creatures whether they will agree or not agree to them. I hope we are not prepared to establish such a system as this.

If, then, the proposed system be despotic, it is proper, in the next place, to inquire why it is erected over the people of Louisiana? Is their condition such as not to qualify them for the enjoyment of any of the blessings of liberty? Are they blind to the difference between liberty and slavery? Are they insensible to the difference of laws made by themselves, and of laws made by others? We have no evidence that this is the case. If we retrace the progress of liberty among other nations, I would ask gentlemen where they find reason for the opinion that the people of Louisiana are unfitted for the enjoyment of its blessings? They will find that it has, in many cases, arisen among people far less enlightened. I trust, therefore, we shall not determine that because the people of that country have not investigated the full value of a free Government, they are not qualified to enjoy any freedom. I ask gentlemen, when they talk of the abuse of the elective franchise, to point out a solitary instance where the people have abused the rights they acquired under it? They will find it hard to point out one. Whereas I ask them for a single instance, in the annals of mankind, where despotism has not been abused. This they will find it equally difficult to adduce. One principle cannot be denied: When power is vested in the people, they exercise it for their own benefit, and to the best of their skill. They have no object in abusing it; for they are sure to be the first victims of its improper exercise. I ask, then, where is the danger of placing



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in the hands of the people the right of choosing those who are to regulate their own internal concerns? Surely, when gentlemen depicted the great danger of this investiture of power, they did not consider that the very act before us, subjects all laws to the control of Congress, and that in all cases wherein Congress shall negative them, they will have no validity. Where, then, is the danger? Will it be injurious to the United States that the Legislature of the Territory, chosen by the people, should make laws for their own accommodation, without prejudice to the Union? It cannot. I feel surprised when gentlemen say, we ought to be cautious in giving power, lest it should be used in opposition to the interests of the Union. How can this be, when this Government has the appointment of all the officers, and particularly the Governor and judges; and when to the Legislature is only confided the management of internal concerns? When they have no authority to form connexions with foreign Powers, or to form any coalition with their neighbors, in opposition to the measures of the General Government? If the people are already hostile to the United States, it is evident that it is not the severity of despotism that will make them friendly. I ask, how are we to account for this change? Not long since, this people were congratulated on their releasement from a despotic Government, and were invited into the arms of a Government ready to extend to them all the blessings of self-government. Now we are about to damp all their hopes, and to send forth a few creatures to lash them with despotism, to make all their laws. We go further. We do not even hold forth the idea that, at a future day, they shall make their own laws. Our language is, if, notwithstanding the despotism we extend over you, like good subjects, you patiently bear your chains, we may withdraw them, and let you govern yourselves. If this is not the amount of the language of gentlemen, I do not comprehend it.

It is stated by a gentleman from Massachusetts, that it is difficult to form a government for such a people; and that it is necessary previously to consider the habits and manners of the people to be governed. I am sorry, at this enlightened day of the world, to hear arguments in favor of despotism, so often used before. How does a despot govern his subjects? He tells them, and makes them believe, that they are ignorant and unqualified to govern themselves; considering their ignorance, he tells them he does them a favor by governing them, and they have nothing to do but to obey. This is the doctrine on which monarchy and despotism rise; as it prevails, despotism prevails, and in proportion as it is destroyed, the principle of liberty prevails. Let us not say, the people are too ignorant to govern themselves. No. Give them an opportunity, and they will acquire knowledge, at least sufficient to make a proper choice of those best qualified to superintend their public concerns. This will act as a stimulus to those who expect to be chosen, to make themselves qualified. But I never knew, before this day, that for a people to be fit for the enjoyment

of liberty, they must, for a certain time, be under the scourge of despotism.

The same gentleman inquires, in case the elective franchise shall be extended, what hold we shall have on the people of Louisiana? This inquiry is readily answered; we shall have power to reject all laws they may make; and a Governor appointed by us, will have the nomination of all military and civil officers, who administer the Government. If this is not a hold and check upon them I know not what is. While examining this point, it may not be improper to inquire, what is the best way of making these people most attached to the United States; and whether that end will be answered best by denying them all liberty, and by making a radical difference between their Government and that of territories similarly situated with themselves. Let me for once observe, that it is the true policy of this Government to conciliate the people to us, to our manners and laws; to show them, that considering them as a part of the Union, they have a right to expect the enjoyment of privileges unknown to them before; instead of disappointing their hopes and compelling them to serve a long quarantine before they are admitted to a participation of those rights which we ourselves possess.

It has been intimated that these people are unfit to govern themselves, but I am acquainted with no information that warrants this inference. I believe that information of a different nature derived from other gentlemen, is more to be relied on, because those who give it are better informed. As to their interests I cannot conceive what can have rendered them so different from those of the people of the Mississippi Territory; they were once the same people and under the same Government, and they could not have then become unfit for self-government. The best information assures us that a considerable proportion of the population is composed of American citizens, amounting perhaps to one-fourth or one-fifth of the whole. There are also many British subjects, not so ignorant as to be entirely insensible to the benefits of a free Government.

Is there, too, anything in the Spanish Government whose effects are so degrading as to disqualify a man from enjoying freedom? If this were the case it would have been an argument against accepting the country at all. Have we not, however, understood that this great measure has been effected with a double view of accommodating the United States and benefitting the people of Louisiana, by extending to them the advantages of a free Government? Shall we consider ourselves at liberty to barter them, to view them as cattle, and govern them as such? I hope not. Let us look at the treaty and attend to its language. It says, "The inhabitants of the ceded territory shall be incorporated in the union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages and immunities of citizens of the United States; and in the meantime they shall be maintained and protected in the free enjoyment of their liberty,

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'property, and the religion which they profess.'" By the very act before us, a number of the laws of the United States are extended to them; by this the principle is admitted that the rights, advantages, and immunities, can, according to the Constitution, be extended to them. If they can be so extended, it becomes a question of policy altogether, how far they shall be extended. Is it then politic, or not, at this time to extend the privileges they are entitled to as a Territory of the United States? One idea relied on by gentlemen is worthy of notice; it takes for granted that the people do not wish for a free Government. I ask gentlemen if they are really serious in this remark? If they are, the argument will be conclusive in giving them, if they choose it, an absolute despotism. If we knew it were the desire of the people to have a King, whatever might be our opinions of the benefits of liberty, it would be our duty to give them one! Gentlemen cannot think so, nor would they suffer the United States to degrade their character by such an act. I conceive the United States bound to give them a republican form of Government, and to consider therefore not what they may desire, but what will best suit their ultimate interest, while it promotes the benefit of America at large. One gentleman observes, that we ought to regard the people of Louisiana as totally distinct from, and as not possessed of any similar habits with ourselves. I trust, however, we shall consider them as a part of the human species. I believe the gentleman will find the human character the same in different parts of the globe. If this principle had been pursued, liberty had never flourished; if the people had never enjoyed liberty till they were ripe for it, how many ages of darkness would have passed away! But the fact is, the people suffer oppression to an astonishing degree—despotism grinds them down till human nature can endure no more, and then they break their chains in a revolt. I therefore can see no force in the argument of waiting till they are ripe for liberty. How ripe? If they have never tasted its benefits how can they know them? I trust, therefore, we shall extend to them the same rights as are enjoyed by the other Territories. I will close what I have to say on this subject with a few additional remarks. Much has been said of the interests of the people, to prove them incapable of exercising the elective franchise. I will only observe, in addition to what I have already stated, that I believe that principle was the first made use of among nations. We find it among savage nations, and we find all nations, even in the darkest periods, exercising it, until deprived of their liberties by one or a few designing and ambitious characters. Should the Committee agree to strike out this section, it is my wish to propose an amendment similar in substance to the provisions established in the Mississippi Territory. I will not take up the time of the Committee with reading the rough draught which I have drawn to this effect, but barely state that my object is to empower the Governor and judges to execute the government until they shall divide the Territory, and until the people choose their own Legislature. I trust, therefore, the Committee

will agree to strike out the section, and that it shall not hereafter be said, that we met to make laws for a people, whom we have called our friends and brothers, different from the laws which we have made for ourselves.

Messrs. ELMER and LEIB, supported, and Mr. HUGER opposed this motion; when the Committee rose, without any question being taken, and obtained leave to sit again.

WEDNESDAY, February 29.

Mr. JOHN C. SMITH, from the Committee of Claims, to whom was referred, on the twentieth instant, the memorial of William Eaton, made a report thereon; which was read, and the consideration thereof postponed until Friday next.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill providing for the expenses of the civil government of Louisiana; which was read twice, and committed to a Committee of the whole House on Friday next.

An engrossed bill to revive and continue in force an act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," was read the third time, and passed.

Mr. EPES, from the committee appointed, presented a bill declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned; which was read twice and ordered to be read the third time to-morrow.

*Ordered,* That the depositions and other papers transmitted from several counties in the State of Virginia, respecting a contested election of Thomas Lewis, one of the members returned to serve in this House, which were referred to a Committee of Elections, during the present session, be referred to the Committee of the whole House to whom was committed, on the twenty-fourth instant, the report of the Committee of Elections in the case of the said contested election.

The House resolved itself into a Committee of the Whole on the bill altering the days of session of the district court for the district of Virginia; and, after some time spent therein, the bill was reported with several amendments thereto; which were twice read, and agreed to by the House.

*Ordered,* That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

A Message was received from the President of the United States, communicating a letter stating certain fraudulent practices for monopolizing lands in Louisiana, The Message, and the letter transmitted therewith, were read, and ordered to lie on the table.

Mr. JACKSON moved the going into Committee of the Whole, on the report of the Committee of Elections, respecting the seat of Thomas Lewis.

Mr. DANA moved a postponement of this order until to-morrow, and required the yeas and nays, which were yeas 64, nays 48.

The House went into a Committee of the Whole on the bill making appropriations for carrying into effect the convention of the 11th Au-

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gust, 1802, between the United States and the King of Spain.

The bill appropriates \$15,760 for the compensation of two Commissioners, half of the fifth Commissioner, a secretary, and an agent.

Having passed through the Committee, the House ordered the bill to a third reading to-morrow.

Mr. EPPES, from the committee appointed to inquire whether the moneys drawn from the Treasury on account of the Marine Corps have been faithfully applied to the public service, made a report, which concludes with recommending a resolution, that provision ought to be made by law for a monthly or quarterly adjustment of the accounts of the Marine Corps.

#### GOVERNMENT OF LOUISIANA.

The House went again into a Committee of the Whole on the bill for the government of Louisiana.

The fourth section of the bill being under consideration—

Mr. JACKSON said: As this section is the corner stone on which the whole superstructure rests, and involves the most important principle of the bill, I will ask the indulgence of the Committee to make a few remarks upon it. It presents two important questions; first, Whether it is proper on the broad principle of political justice to adopt it? And secondly, Whether it is consistent with our treaty with France? Two questions arise out of the first proposition; first, Is the system consonant to the habits of a free people? And, secondly, if not, is it the best calculated to advance the happiness of those who have never tasted the blessings of liberty? The first question requires no discussion; it will be answered in the negative by every section of this Union. Every section has been engaged in forming a constitution, and both the State and Federal constitutions have decided this point in the negative, because neither partake of the aristocratical or monarchical features contained in this section. The question remains to be considered whether it is best calculated for those who have never enjoyed the blessings of liberty. Gentlemen say it is, because the people are hostile to the enjoyment of the blessings of self-government, and the gentleman from South Carolina thinks we ought to look upon them as a certain portion of the people among us—meaning those in slavery—and to treat them as such.

Mr. HUGER explained. He said his meaning was not such as the gentleman's language implied; he spoke of them barely by way of comparison, to show that nothing was more dangerous than to pass from the extreme of slavery to perfect liberty.

Mr. JACKSON.—I will not pretend to say I comprehended the meaning of the gentleman; his words were, "they ought to be looked upon as a certain portion of people among us and treated as such." If he did not allude to slaves, I do not know to whom he did allude. But as he says he did not allude to them, I will avoid any remarks that go to implicate him in such allusion. Admitting they are not to be compared to the slaves

of the Southern States, or to those human beings who are made the subject of traffic, gentlemen allege that a system of free government will be inconvenient to them. I believe they are wrong in this position, and that man is the same, whether born in the United States or on the banks of the Ganges, under an African sun or on the banks of the Mississippi, and that a love of liberty is implanted in his nature. If the gentleman from South Carolina meant to impress a belief on the Committee, or is under the influence of that belief himself, that the inhabitants of Louisiana are exclusively subjects of France or Spain, he is mistaken. A great number of the inhabitants are Americans. Emigration has been carried to a great extent; many have gone from the West, from the East, and from the middle States; and I will ask gentlemen, whether those persons who have carried with them the habits of Americans, are not fit objects of free government? Surely they are; and yet these must be excluded from the benefits of self-government, if this bill pass in its present shape. I flatter myself that great good will result to the United States, and to the political system we support, by the introduction of Americans into that country; they will explain to the natives and to those who have emigrated from Europe, the nature and principles of our Government; the language of liberty will captivate them; its principles are just, and will be omnipotent, and in receiving a free system of government from the United States, they will feel a sentiment of gratitude instead of abhorrence.

Allow, for the sake of argument, that the people are slaves. This does not prove that they are not fit objects of a free Government. Look at the ensanguined plains of St. Domingo; the oppressed have there broken their chains, and resumed their long lost rights. The example proves more than a volume. There, notwithstanding the great debasement of the human character, the sacred fire of liberty is not extinguished. Wherever it exists, sooner or later, it bursts forth into an irresistible flame, and consumes everything opposed to it. And are the subjects of a monarchy, the inhabitants of Louisiana, more deficient in manly sentiment than the people of St. Domingo? This argument of incompetency in the people to govern themselves, is the essence of despotism; its language is, the people are a mob; a swinish multitude; and the Divine Goodness has pleased to send into the world kings and nobles to keep them in order. A language well suited to bold and ambitious spirits, but which, thank God! the American people know how to estimate.

One gentleman, in the course of his remarks, in order to show that the people of Louisiana are not qualified for self-government, has informed us they shed tears at the lowering of the French flag, and the hoisting of ours in its room. Perhaps they were not unfriendly tears, but tears of joy; perhaps those who shed them were sycophants of Mr. Laussat, and they were shed to gratify him. At all events, whether they laughed or cried, I am unwilling to form a judgment of the character of the people from the conduct of a few persons at

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New Orleans, who, from proximity and the nature of a despotic government, felt themselves obliged to weep, to smile, or dress their faces in sunshine, as the occasion prompted, through fear of the inquisition or incarceration for life.

But gentlemen say, men of information who have been amongst them are convinced they are not qualified to receive a free government; that it would indeed disgust them: I believe, however, that this impression has been founded on the same *ex parte* views. Persons going to New Orleans, where despotism rages with unbounded sway, beholding a few persons around the despot, ready to sacrifice everything to his caprice, are not proper to give a character to several hundred thousand people. I believe, if the interior of the country be explored, among those who have heretofore been subjects of Spain and France, we shall find many desirous of receiving civil and religious liberty, and as opposite to the fawning sycophants at New Orleans, as light from darkness. We were told some time since, that Mr. Laussat could not obtain the cession of the country, so great was the hatred of the people to France, and their love of Spain. But in a short time we perceive this hatred turned into affection, so ardent as to produce extreme distress at the transfer of the country to America from France, after but a few days possession. If this statement be true, and the people are so versatile, we may predict that they will be as soon attached to us, and as willing to receive a free system of Government as they were lately enamored of slavery.

It is urged by gentlemen, that we ought to give to this people liberty by degrees. I believe, however, there is no danger of giving them too much of it; and I am unwilling to tarnish the national character by sanctioning the detestable calumny that man is not fitted for freedom. What will the world say if we sanction this principle? They will say we possess the principle of despotism under the garb of Republicans; and that we are insincere, with whatever solemnity we may declare it, in pronouncing all men equal. They will tell us that we have emphatically declared to the American people and to the world, in our first act evincive of emancipation from the tyranny of England, that all men are equal; and that all Governments derive their rightful power from the consent of the governed; and that notwithstanding, when the occasion offers, we exercise despotic power, under the pretext that the people are unable to govern themselves.

I come now to the second question; Is it consistent with the treaty, for the performance of which we have pledged our faith, to withhold from the people of Louisiana the privileges of free government?

The article on this point is in these words:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted, as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and in the meantime they shall be

maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

A gentleman from Massachusetts, who advocated this section, asserted that the treaty does not apply, because the people are not yet admitted into the Union; but what does the treaty say? "The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible," &c.—*As soon as possible*, not as soon as conveniently can be admitted; there is no such limitation; and unless gentlemen can make it appear impossible to admit them to a participation of rights, anterior to their admission into the Union as an integral part of it, this provision does require the extension of political rights to them, unless contrary to the Constitution. Cannot we do this under the Constitution? We certainly can—it is not denied that we have the right and possess the power to authorize the people to elect their own magistrates; and as this is not inconsistent with the principles of the Constitution, we are bound to admit them "to the enjoyment of all the rights, advantages, and immunities of citizens of the United States." Upon the whole, whether we view the subject on the principle of policy, so far as it respects the propriety of extending the principle of free government to this people, or so far as respects the treaty, to the execution of which we have pledged our faith, I have no hesitation in saying, that policy no less than moral obligation dictates the establishment of a system of government different from that contained in the fourth section. I shall, therefore, most cheerfully vote for striking it out.

Mr. HOLLAND.—As my ideas are very different from those of the gentleman who has preceded me, and as I do not believe that either policy or moral obligation recommends the adoption of a system such as he has avowed to be proper, I will, in a few words, state the sentiments I entertain. I do not view this discussion as involving the question, whether the people of Louisiana shall be admitted into the United States. The only question is, whether we shall extend to them the right of free suffrage in its fullest extent, and such as is enjoyed by the people of the United States? Gentlemen in favor of striking out this section, seem impressed with the idea that every gentleman friendly to the section is in favor of an absolute despotism—is inimical to their rights, is desirous of making the people of Louisiana slaves. They take the ground that, if we deny them this right, we deny them everything. But there is a wide difference between denying them the privilege of election and extending to them other high privileges; more, perhaps, than they are capable of enjoying. This law will extend to them the privileges of twenty-one acts of the United States, to which the freemen of the United States are subject. Is this nothing? Gentlemen say they ought not to be subjected but to laws of their own making; but the whole frame of this bill contradicts the assertion, as it principally consists in imposing laws which the people never made, or ought to participate in making. Will the gentleman take

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the broad ground that people should never be governed but by laws of their own making? This is, indeed, the amount of the argument, and proving too much, it proves nothing. Mr. H. said he believed the people of St. Domingo, who had been alluded to, not qualified to support a free government—not possessed of sufficient knowledge. People who never had an opportunity to obtain knowledge cannot be supposed to possess it, and no kind of knowledge was more difficult to obtain than that which qualified men to be legislators. Can gentlemen conceive the people of Louisiana, who have just thrown off their chains, qualified to make laws? Under the late system the people had no concern in the government, and it was even criminal for them to concern themselves with it; they were set at a distance from the government, and all required from their hands was, to be passive and obedient. Can it be supposed such a people made the subject of Government their study, or can it be presumed they know anything about the principles of the Constitution of the United States? Would persons thus elected be of any service to the Government? So far from being an assistance they would be an encumbrance. Why then impose this burden upon them? The object of this bill is to extend the laws of the United States over Louisiana, not to enable the people of Louisiana to make laws. This extension, so far from being an act of despotism, will be an important privilege. If the laws of the United States were founded in injustice they might have some right to complain, but we only apply to them laws by which we ourselves consent to be governed. Gentlemen say, if we deny the right of self-government, we deny everything; but before they are permitted to make laws, ought they not to understand what law is? If we give power to the people, will they not choose persons as ignorant as themselves? It is a fact that many of the most respectable characters in the country conceive the principle of self-government a mere bubble, and they will not consider themselves aggrieved if it is not extended to them. Does the history of nations show that all men are capable of self-government? No such thing. It shows that none but an enlightened and virtuous people are capable of it; and if the people of Louisiana are not sufficiently enlightened, they are not yet prepared to receive it. If this be the case, the arguments of gentlemen are inconclusive. They are not prepared for self-government. For what are they prepared? To remain in a passive state, and to receive the blessings of good laws; and receiving these, they have no reason to complain.

The provisions of this section are said to be worse than those of the first grade of Territorial governments; but this is incorrect. This plan is not equal to the second grade, but it is certainly superior to the first grade. The first grade gives the Governor and judges all the powers granted by this section; and this section, in addition to the Governor and judges, contemplates the appointment of thirteen counsellors. Is not this preferable to giving the whole power to the Governor and judges?

When the people understand the value of laws equally and impartially administered, and begin to feel an attachment to the United States, and to inquire into the principles of free government, it will be time enough to give them the elective franchise.

Mr. SLOAN.—Mr. Chairman, although silent, I have not been an inattentive spectator of the business now before the House. I was, yesterday, about to rise to express my disapprobation of the section now under consideration, and my concern on hearing sentiments adduced in support of its principle—which I consider as repugnant to justice and sound policy as frost is to fire, or darkness to light—when my friend from Tennessee (Mr. G. W. CAMPBELL) rose, and in so clear and explicit a manner opposed the bill, and exposed its unjust, impolitic, dangerous, and despotic principle, that nothing appeared necessary to be added; after which, I flattered myself no further attempts would be made to support a principle subversive of the inalienable rights of man, but, to my surprise, I hear a repetition of sentiments urged in favor of this principle!

Here let me ask, can anything be more repugnant to the principles of just government; can anything be more despotic, than for a President to appoint a Governor and Legislative Council, the Governor having a negative on all their acts, and power to prorogue them at pleasure? What liberty, what power is here vested in the people? But, perhaps, I may be told that, in the present case, this power will be delegated to one who will not abuse it. This bears no weight with me. None have a higher esteem and respect for the superior talents, integrity, and justice of our present Chief Magistrate than I; but I can never consent to delegate that power to a just person, which an unjust person, who may succeed him, may use for oppressive and tyrannical purposes.

Perhaps I may be also told, that I am ignorant of the situation of the people—I acknowledge it. I only know their situation from printed narrative, and historical or verbal accounts, and probably the greater part of the members of the present House are equally ignorant. But, Mr. Chairman, the only thing I want to know, to decide the present question, is, are they human beings possessed of rational understanding? If so, give them an opportunity to improve it.

But we have been told, that giving these people their just rights will make them enemies dangerous to Government; enable them to combine together, &c. This is, in my opinion, not supported by a single fact, either ancient or modern. That to make the situation of rational beings better, will render them enemies to their benefactors, is as impossible as for streams to turn backward to their source, flames to descend, or sparks cease to fly upwards.

Here, Mr. Chairman, permit me to ask what danger can possibly arise from allowing them the elective franchise? Every law must be sanctioned by the Governor, under the control of Congress. Thus circumscribed, what power have they? I answer, being elected in different, and

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some of them from distinct districts, they will consequently have knowledge of the various situations of the people, and form a proper medium through which to convey an account of grievances, and information of whatever subjects require Legislative interposition—which, I trust, would be strictly attended to by the Governor. And all laws made for the promotion of their peace and prosperity, sanctioned by the Government, would bind them to the United States, by the strongest of all ties, gratitude and love.

For the foregoing reasons I shall vote for striking out the section, in order that one may be introduced allowing them the elective franchise—which I consider not only as their inherent and inalienable right, but as a right we are bound to give them to fulfill the treaty of cession—and without which, neither the present, nor any other bill, depriving any description of free white citizens of what I consider an inalienable right, shall ever have my vote.

Mr. SMILE said it was not his purpose to detain the House by any detailed observations. His ideas differed in some respects from those expressed by gentlemen on both sides of the question. The subject of liberty was so grateful a theme that gentlemen, desirous of speaking, could not wish a better. All the arguments, however, which had been uttered as to the right of man to self-government, were, in his opinion, irrelevant to the present occasion. He could not agree with gentlemen who considered man, in every situation, as capable of enjoying all the blessings of free Government. The universal experience of the world disproved it. History informs us of many nations, once possessed of free Governments, who afterward became incapable of enjoying them. If this be the case, we may suppose those who never enjoyed liberty, incapable of enjoying it to the same extent as those who have had a long experience of its blessings. Whether the people of Louisiana are qualified to enjoy all the blessings of free Government, I have my doubts. But, I do not, said Mr. S., see the danger of extending to them, ill-informed as they may be supposed to be, the elective franchise, while under the immediate control of the Government of the United States, as they necessarily must be. We ought to discriminate between the situation of a people forming a government for themselves, over which there is no external control, and the situation of a people whose power is under a controlling government. This is an important consideration. I ask, where will be the danger, or the capacity of their doing anything injurious to the United States, provided we give them the elective privilege? They will only be empowered to pass laws for the management of their own internal concerns, and even in these they may be controlled by the United States. Two of the departments of the government will still remain in the hands of the Government of the Union. The Executive power will be amenable to the President, as well as the military. The Government of the United States will retain in their own hands the purse and the sword. Where, then,

can be the danger of trusting the people with the exercise of the elective franchise? To me there appears to be none. As I take it for granted that there is but one opinion as to the propriety of bestowing every blessing consistent with the provisions of the Federal Constitution, I think there can be no difficulty in striking out this section, and amending it so as to render its provisions more consonant with what appears to be the disposition of the Committee.

Mr. BOYLE said he should not have risen on this occasion but for the impression that some arguments of weight had been omitted, or had not been sufficiently dwelt on. In the few remarks he purposed to make, he should endeavor to avoid a repetition of ideas already expressed. It was not so much to the novelty, as to the nature of the plan of government contained in the fourth section, that he was opposed. He did not consider the Territorial government proposed to be substituted, as perfect, but he believed it infinitely preferable to that contemplated in the bill. Preferring, therefore, either grade to this, said Mr. B., I shall concur in supporting the substitution of the second grade as most fitted to the circumstances of the people of Louisiana. I feel peculiarly hostile to the mode of appointing the Legislative Council. The power of appointing them is unnecessarily vested in the President. Waiving all objection arising from the distance of the President from the men to be appointed; from the necessity of his relying on the representations of others as to their qualifications, and his liability to be deceived by misrepresentations; still one objection remains, which, to my mind, is most important. I am, said Mr. B., unwilling to extend Executive patronage beyond the line of irresistible necessity. For, I believe, if ever this country is to follow the destiny of other nations, this destiny will be accelerated by the overwhelming torrent of Executive patronage. I feel as high a veneration for the present Chief Magistrate as any man on this floor. Early attached to him, I have retained the full force of my regard for him. But, were he an angel, instead of a man, I would not clothe him with this power. Because, in my estimation, the investiture of such high powers is unnecessary. My opinion is, that they will be more properly exercised by the people. To give them to the President is to furnish a dangerous precedent for extending Executive power and patronage; and as he has himself said, one precedent in favor of power is stronger than a hundred against it, I am in favor of giving to the people all that portion of self-government and independence which is compatible with the Constitution. To this I consider them entitled, as well on natural principle as by the terms of the treaty. When the British Parliament passed the celebrated declaratory act, we declared to the world our right of being governed by laws of our own making. If this right was then, as we declared it, an inalienable and indefeasible right, is it less so now? If it was our indefeasible right, is it not likewise the indefeasible right of every individual of the human species?

But, it is said, the people of Louisiana are not

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capable of self-government. This assertion must be founded either on the incapacity of the people to choose fit Representatives, or on their inability to find men properly qualified for Representatives. It is unnecessary, on this point, to go into detail. For the section under consideration presupposes the existence of men of sufficient talents to discharge Legislative functions. The President is bound to limit his appointments to persons who have resided one year in Louisiana. The only question is, whether the people are capable of making a discreet choice of Representatives? Wisdom and virtue are the qualifications of a legislator. Abstractly considered, these qualities are inscrutable; but, in particular individuals, they become objects of sense, visible to the most ignorant. And, from a happy ordinance of nature, the most ignorant and wicked are bound to venerate talents and virtue wherever they are found. As what has been said by a celebrated writer on this subject will be more conclusive, and carry with it more weight than anything I can urge, I will quote his words:

"The people are extremely well qualified for choosing those whom they are to entrust with part of their authority. They have only to be determined by things to which they cannot be strangers, and by facts that are obvious to sense. They can tell when a person has fought many battles, and been crowned with success; they are, therefore, very capable of electing a general," &c.—*Montesquieu.*

This distinguished writer does not, in these remarks, allude to particular people, living under a free Government, but refers to mankind in general, in all climates and ages. If, then, there can be no want of men qualified to legislate, and no want of discernment in the people to select them, no objection can arise to conferring the right of self-government, so far as consistent with the Constitution and our national sovereignty.

It is said, by the gentleman from Massachusetts, that the people of Louisiana stand in the same relation to us as if we had obtained the country by conquest. If so, we ought to operate upon them more by the influence of love than fear. It will be acknowledged, on all hands, that the exercise of power must be modified by the terms of the cession; and the treaty stipulates that:

"The inhabitants of the ceded territory shall be incorporated in the Union of the United States, and admitted as soon as possible, according to the principles of the Federal Constitution, to the enjoyment of all the rights, advantages, and immunities of citizens of the United States; and, in the meantime, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess."

Not content with having provided for their incorporation, inasmuch as the period of incorporation could not be precisely fixed by an express engagement, it provided that, until that period, they shall be maintained and protected in the free enjoyment of their liberty, property, and the religion which they profess. If by liberty is meant doing that which the laws do not prohibit, then it is immaterial what kind of government be given

them; but if, by liberty, it be understood that they shall not be bound by laws to which they have not consented, it is essential that there be given a form of government in which they shall either participate by themselves or through their Representatives. For these reasons, I have no hesitation in declaring, that my vote shall be in favor of striking out the section, and adopting in the place of it one or the other of the grades of Territorial government, or something similar to them.

Messrs. ELLIOT, OLIN, and ELMER supported; and Messrs. S. L. MITCHILL, and LUCAS opposed the motion to strike out the fourth section, made with the view of extending to the people of Louisiana the elective franchise; when the question was put, and the motion to strike out carried—yeas 80, nays 15.

Mr. G. W. CAMPBELL offered the following substitute:

"The Governor and Judges, or a majority of them, shall adopt and publish in the said Territory, such laws of the original States, criminal and civil, as may be necessary and best suited to the circumstances of the Territory, and may also make such laws as they shall deem conducive to the good Government of the inhabitants thereof, and report the same to Congress from time to time, which laws shall be in force in the said Territory until the organization of the General Assembly therein, unless disapproved of by Congress, but afterwards the Legislature shall have authority to repeal or alter them as they shall think fit.

"The Governor or Judges, or a majority of them, shall, as soon as may be, after they are appointed and commissioned, divide the said Territory into — divisions, to be called counties, in such manner as may best suit the convenience of the inhabitants, each county to contain, as nearly as may be consistent with the nature of the settlements, an equal number of free persons; and the city of New Orleans shall form one county.

"Previous to the organization of the General Assembly, the Governor shall appoint such magistrates, and other civil officers, in each county of the said Territory, as he shall find necessary for the preservation of the peace and good order in the same; after the General Assembly shall be organized, the powers and duties of the magistrates and other civil officers shall be regulated and defined by the said Assembly; but all magistrates and other civil officers, whose appointments are not herein otherwise provided for, shall, during the continuance of this temporary Government, be appointed by the Governor.

"The General Assembly, or Legislature, shall consist of a Legislative Council and a House of Representatives: the House of Representatives shall consist of — members, of whom — shall be chosen from the county, including the city of New Orleans, and — from each of the other counties in the said Territory; a majority of whom shall be a quorum to do business.

"No person shall be eligible or qualified to act as a representative except a free white male, who shall have been a citizen of one of the United States, or of one of the Territories, heretofore belonging to the United States, three years, and be a resident in the county for which he shall be chosen, or who shall have resided in the said Territory of New Orleans three years, and be resident in the county for which he shall be chosen, and in either case shall likewise hold in his own right, in fee, two hundred acres of land within the same.



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Every person of the age of twenty-one years, having been a citizen of the United States, or having resided in the said Territory one year immediately preceding any election, shall be qualified to vote for a Representative or Representatives in the county in which he shall reside at the time of such election.

"The Governor and judges, or a majority of them, as soon as may be, after the said Territory shall have been divided into counties, and within — from the passing of this act, shall make the necessary regulations; and give time and place to the inhabitants of each county of the said Territory, qualified to vote as herein-before prescribed, to elect representatives to represent them in the General Assembly. The representatives thus elected shall serve for the term of one year, and in case of the death of a representative, or removal from office, the Governor shall issue a writ to the county for which he was a member, to elect another in his stead to serve for the residue of the term.

"The Legislative Council shall consist of — members, to continue in office one year, unless sooner removed by the President of the United States, a majority of whom shall be a quorum to do business; and they shall be appointed in the following manner, to wit: As soon as representatives shall be elected, the Governor shall appoint a time and place for them to meet, and when met, they shall nominate — persons, having the same qualifications as are herein declared necessary for representatives, and return their names to the Governor, who shall within — days thereafter, appoint and commission — of them to serve as a Legislative Council; and whenever a vacancy shall happen in the Council, by death or removal from office, the House of Representatives shall nominate two persons qualified as aforesaid for each vacancy, and return their names to the Governor, one of whom he shall appoint and commission for the residue of the term. The General Assembly shall meet at least once in every year, at the city of New Orleans, at such time after the first meeting as may be appointed by law. And the Governor shall have power on extraordinary occasions to convene the General Assembly.

"After the first election, representatives shall be elected annually, in such manner as the Legislature may direct, not contrary to the provisions of this act. And a Legislative Council shall likewise be annually appointed, in the manner herein-before directed.

"The General Assembly shall have authority to make laws in all cases for the good Government of the said Territory, not repugnant to the Constitution and laws of the United States. All bills having passed by a majority in the House of Representatives, and by a majority of the Council, shall be referred to the Governor for his assent, but no bill or Legislative act whatever shall be of any force without his assent.

"The Legislature of the said Territory shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to land within the said Territory."

The Committee now rose and obtained leave to sit again; and the House ordered the section proposed as a substitute to be printed.

#### CONTESTED ELECTION.

Mr. FINDLEY, from the Committee of Elections, to whom were referred, during the present session, a representation of Duncan McFarland, of the State of North Carolina, complaining of an undue election of SAMUEL D. PURVIANCE, returned to

serve in this House as a member for the seventh election district in the said State; also, sundry depositions and other papers transmitted from the counties of Montgomery and Cumberland, being part of the aforesaid seventh district, in the case of the said contested election; made a report thereon; which was read, as follows:

"That at an election held at the times and places directed by a law of the State of North Carolina, for the election of a member to serve in the eighth Congress, for the seventh district of said State, among other complaints alleged by Duncan McFarland, it is proved by testimony, legally taken in presence of William McCarroll, the voluntary agent of Samuel D. Purviance, that, at the elections held at the different election districts into which the county of Montgomery is, by law, divided, the inspectors and clerks of the elections held at the several election divisions of the said county of Montgomery not only neglected, but refused, to take the oath obliging them to act with justice and impartiality, as directed by an act of Assembly of North Carolina, passed in the year 1802, notwithstanding that they were thereto required by Duncan McFarland, at the opening of the election; therefore, the committee, without deciding on the other complaints made against the said elections, consider the neglect and refusal to take the oath prescribed by law as sufficient ground to set aside the election held for the said county of Montgomery.

"That, with respect to the elections held at the election districts in and for the county of Cumberland, of the Congressional district aforesaid, a notification was given, according to law, by William Cochran, Esq., on the application of Duncan McFarland, on the 5th day of October, 1803, to Samuel D. Purviance, informing him of the times and places where depositions were to be taken, in support of the complaint of Duncan McFarland against the election of the said Samuel D. Purviance.

"That, agreeably to the notification, William McCarroll attended, and acted as the voluntary agent of Samuel D. Purviance; that from the examination taken on this notification, sufficient cause does not appear to change the state of the poll, so far as to set aside the elections held in and for the said county of Cumberland.

"That all the witnesses not appearing agreeably to the said notification, a second notification was left at the house of Samuel D. Purviance, for the said Samuel D. Purviance; or William McCarroll, directed to the said McCarroll, his friend, on the 2d of November, 1803, appointing another examination of witnesses on the 22d, 23d, 29th and 30th days of that month. Of this notification, Samuel D. Purviance, then in Congress, was not informed until the 23d, viz: the day after that on which the examination was to commence, and he had authorized no agent; and neither William McCarroll, nor any other person, attended as his voluntary agent.

"That, on the first day of December, a third notification was left at the house of Samuel D. Purviance, for the said Samuel D. Purviance, or William McCarroll, his agent, or friend, directed to the said William McCarroll, to attend on the ninth and tenth days following, to the further examination of witnesses, as aforesaid; but the notification did not, or could not, reach Samuel D. Purviance, then in Congress, in due time; and neither William McCarroll, nor any other person, in behalf of Samuel D. Purviance, attended.

"It further appears to the committee, that though various irregularities and abuses are set forth in the de-

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positions taken, agreeably to the second and third notifications, and alleged to have been practised at the said election, yet that Samuel D. Purviance had not such notice as put it in his power to attend the said examination of witnesses, or to appoint an agent so to do.

"It further appears, from the documents, that depositions were taken, and examinations made, by magistrates who were not named in the notification issued by the magistrate to whom the application was made, and without a certificate of the matters and proceedings had by him in that behalf, as the law enacted by Congress provides. It also further appears that part of the testimony so taken is in the hand-writing of Duncan McFarland, one of the parties, and signed by the mark of the deponent, inconsistent with the act aforesaid, which provides that the magistrate shall cause the examination to be reduced to writing, in the presence of the parties, or their agents; which the committee are of opinion does not authorize the writing the examination by the parties themselves.

"Influenced by the aforementioned facts and circumstances, the committee are of opinion that the aforesaid testimony, respecting the election held in and for the county of Cumberland, cannot be admitted or acted on by the House.

"By comparing the certified records of the lists of taxables in said county, with the list of votes given at the election now contested, it appears that the number who voted exceeds the number of taxables in the county; viz: the number of persons who voted is 1,159, and the number of free taxable polls taken from the last returns of taxables is 1,117; but the committee discover that the tax lists of any year, agreeably to the laws of North Carolina, are not a perfect record of those who are entitled to vote, because citizens who, at any time, had formerly paid taxes, by the laws of that State, appear to the committee to continue to enjoy the privilege of voting, though they might, for many years, have ceased to pay taxes.

"Therefore your committee are of opinion that there is not sufficient legal testimony to set aside the election of Cumberland county, so as to vacate the seat of Samuel D. Purviance."

The report was referred to a Committee of the Whole on Monday next.

#### THURSDAY, March 1.

An engrossed bill declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned, was read the third time and passed.

An engrossed bill making an appropriation for carrying into effect the Convention concluded between the United States and the King of Spain, on the eleventh day of August, one thousand eight hundred and two, was read the third time, and passed.

An engrossed bill altering the days of session of the District Court for the District of Virginia was read the third time and passed.

Mr. RODNEY, from the committee appointed, presented a bill for the appointment of an additional Judge for the Mississippi Territory, and for other purposes; which was read twice and committed to a Committee of the Whole on Monday next.

The order of the day for the House to resolve itself into a Committee of the whole House on

the bill sent from the Senate, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," being called for, a motion was made, and the question being put that the said order of the day be postponed until to-morrow, it was resolved in the affirmative.

The SPEAKER laid before the House a letter from the Postmaster General, transmitting a detailed report of the amount of postage in each State for three successive years, commencing with the first of October, 1800, and ending on the 30th of September, 1803, together with the expense of transporting the mails on all roads, in each State, and the amount of commissions of postmasters, as well as the other expenses in relation to the post offices, in three books, marked A, B, C, together with a summary report of the same, marked D, in pursuance of a resolution of this House of the fifth December last.—Referred to Mr. EUSTIS, Mr. A. TRIGG, and Mr. HAMPTON, to examine and report their opinion thereupon to the House.

*Ordered,* That the Committee of the whole House to whom was referred, on the twenty-third and twenty-seventh of January last, a report, in part, of the committee to whom were referred the petitions of sundry residents and purchasers of land in the State of Ohio; also, a farther report, in part, of the same committee, on "the expediency of amending the several acts providing for the sale of the public lands of the United States," be discharged from the consideration of the same.

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The House went into Committee of the Whole on the report of the Committee of Elections, respecting the election of THOMAS LEWIS, the sitting member, declaring him not entitled, and declaring ANDREW MOORE entitled to a seat.

Mr. BALDWIN called for the reading of part of the evidence transmitted from the county of Greenbriar, which being read at the Clerk's table, Mr. B. observed, that as the Committee of Elections were not unanimous in their report, he felt it his duty, being one of those who were opposed to it, to state the ground of their opposition, in the hope that it might influence the House to reject the report. As no facts were detailed in the report as the basis of the result, he had called for the reading of the evidence from Greenbriar; the issue of the election depending on the principles to be adopted relative to the votes of that county. From the facts thus disclosed he was opposed to the report.

The act of Congress regulating the mode of taking evidence relating to contested elections, requires that a notification of the time, place, and object of the examination of witnesses shall be served on the opposite party, a convenient time before the day appointed, that he may be present.

It appeared that the election was in the month of April. The President's proclamation for an extraordinary meeting of Congress was published in July, yet no measures were taken by the petitioner for the examination of witnesses until the

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month of September. The sitting member was notified to attend an examination at the court-house in Greenbriar on the 21st of that month. He attended, and the witnesses attended, but the petitioner neglected to appear or proceed in the examination. After this, notification was issued, on the 29th of September, fixing the time for the examination of witnesses at the same place, on the 12th day of October, accompanied with a written direction from the magistrate who issued it, that it should be served by copy five days before the 12th. It appeared by the affidavit on the return, that service was made by posting a copy on the door of the dwelling-house of the sitting member on the 6th of October, after he had left home and was on his way to the seat of Government, in obedience to the proclamation of the President of the United States requiring his attendance in Congress on the 17th of the same month, a distance of three hundred miles from his place of residence; that no person was left residing in his house, and he had no actual notice of the service. That when on his journey, at Lexington, seventy miles from home and more than one hundred from Greenbriar court-house, on the 8th of October, within four days' time of examination, a copy was put into his hands, as also appears by the affidavit.

This notice he said he did not consider such as ought to bind the sitting member. A notice of five days at least was required by the terms of the warrant; the service on the 8th gave but four days; this of course could not be claimed on any principle as legal service. Of the copy left at his house, it did not appear that he had or could have actual notice, and this alone is the notice which can be pretended to give validity to the evidence.

It is true, that by law, the magistrate issuing the warrant shall fix the time for its service; but he shall also fix a convenient time having respect to the distance. It was a fact well known through the country, that Congress were to meet on the 17th, and that according to the principles assumed in the act fixing the compensation for the travel of members, allowing one day for twenty miles, he might claim fifteen days for his journey. This notice was served within eleven days of the commencement of the session, and after the sitting member had in fact commenced his journey. His appearance was to be within five days of the session. The time fixed could not therefore be convenient or reasonable, even if service had been actually made. Indeed it may well be questioned whether the privilege of the House does not protect its members from the service of a process, so directly calculated to divert their attention from the concerns of the nation, during the period of its privilege, without its consent. He was therefore of opinion that the notice was not such as could on any principle bind the sitting member. It appears from the documents that a friend of the sitting member attended as his voluntary agent, but it also appears that he protested against the notice, and that he neither had instructions nor authority to appear. Such appearance can give

no validity to the evidence. He further observed that if the notice, such as it was, should be deemed legal, and the evidence taken under it admissible, he still contended the proof was insufficient to warrant the report.

By the laws of Virginia the right of voting for Representatives in Congress is in freeholders having certain specified quantities of estate, and when entitled by deed or grant with six months' possession. The mode of elections is prescribed by law, and known officers are designated to superintend the elections and certify the result. The result of this election is by the proper officers duly certified in favor of the sitting member. From the return of these officers, under the sanction of their official oath, the presumption is in favor of the due election of the member returned and of the legality of his votes, and cannot be set aside without stronger proof on the part of the petitioner. Let us then examine the proof on which he relies. The proof of the petitioner is in fact nothing more than the land list of the county. He rests his claim on a result of a comparison of the poll with this list, and the rejection of those from the poll whose names are not on the list.

By the poll for the county of Greenbriar, it appears that 589 votes were given for the sitting member, 245 of which do not appear on the land list; and 202 of these are eventually rejected by the committee as bad votes, and thus a majority of 59 is reported in favor of the petitioner. Of the 202 votes thus rejected, 175 were decided to be bad on no other proof than that they were not found on the land list.

As this alone turns the election, it becomes a serious question how far the land list is in any instance, and particularly in this country, a criterion to determine the qualifications of voters. It is not by any express law made a criterion; nor can it from its nature be such, even when most perfect. It appears that a list of lands was made for the purpose of taxation in the year 1782, and that the law of the State requires that the returns shall annually be made to the commissioners of the county, from the registers, of all new titles, and from the clerk of the county, of the records of conveyances. It cannot be presumed therefore that it can show the changes of title within the year, nor of course the right to vote which such titles may convey.

A freeholder by descent or marriage may vote immediately on the acquisition of title; a purchaser may vote after six months' possession, and is not required to record his deed for any purpose under eight months, and his right of voting would continue if the title should never be recorded; a freeholder by lease has also a right to vote; of course there is a numerous class of voters whose right will never appear by the land list. A document which must necessarily be so imperfect ought not in any case to be a criterion by which alone the right of suffrage shall be denied to those whose names do not appear on it. But it is in proof that the land list of the county of Greenbriar is peculiarly inaccurate and imperfect. It is

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a new county, and vast tracts of land have been located and patented within a few years, the titles of which do not appear on this list. The deposition of nine persons, including the sheriff, clerk, surveyor, the late and present commissioners, with others, selected as men best acquainted with the circumstances of this list, has been read. Those men on their oaths declare that this list is of their own knowledge unusually inaccurate; that it does not contain half the land in the county; that the returns have not been regularly made to the commissioner, and that no returns of patents have been made from the register's office since the year 1782. That the inaccuracy became so apparent as to induce the Legislature to attempt a revision in 1796. That so many difficulties occurred in the execution of this law that it was repealed in 1799, and the list has never been revised; and, in their opinion, is no criterion whereby to test the important right of suffrage.

It further appears by their deposition that so far as they jointly or severally know the persons objected to because not on the list, they are in possession of real estate, and in their opinion are legal voters. Such is the evidence respecting the land list of this county, coming from witnesses summoned on the part of the petitioner. Yet it is contended, and your committee, by their report, have sanctioned the principle, that this imperfect list, though unsupported even by the affidavit of belief, that those whose names do not appear on it are unqualified, shall turn the proof of the legality of nearly half the votes of the county upon the sitting member; and this too without ever furnishing him with a list of objectionable votes till the moment of examination. Thus not less than 175 voters out of 539 are deprived of the right of suffrage without opportunity of defence.

If this mode of taking proof, without previous notice of the points to which it is to apply, shall be sanctioned by the House; if the land list, however imperfect, is to be the criterion of the qualifications of voters; if the neglect of the petitioner to take his proof in the proper time is to be disregarded; if the privilege of the House and the rights of the member must yield to the humor of the petitioner, surely the House will not suffer the member to be entrapped while in discharge of his duties by notice merely constructive, where the actual presence of the party is so essentially necessary to rebut the presumptions arising from such negative proof.

As Mr. B. was clearly of opinion that the notice given would not sanction the evidence, and that this land was not a criterion whereby to test the right of suffrage, he hoped the House would not agree to the report.

Messrs. FINDLEY and VARNUM supported, and Messrs. JACKSON and HUGER opposed the report. Messrs. R. GRISWOLD, GREGG, DAWSON, EARLY, and J. RANDOLPH, delivered their sentiments with a view principally to obtain explanations of facts or principles involved in the report.

Mr. J. RANDOLPH then moved that the Committee should rise in order to give the petitioner an opportunity of being heard at the bar of the House.

The Committee rose, and the motion was agreed to.

On motion of Mr. HUGER, permission was given to the petitioner and the sitting member to be heard by counsel.

The further consideration of the report was then postponed until to-morrow.

FRIDAY, March 2.

*Ordered*, That the report, in part, of the committee on the petitions of sundry residents and purchasers of land in the State of Ohio, made the twenty-third of January last; also, a further report, in part, of the same committee, "on the expediency of amending the several acts providing for the sale of the public lands of the United States," made the twenty-seventh of the same month, from the consideration of which the Committee of the whole House were yesterday discharged, be referred to Mr. NICHOLSON, Mr. MORROW, Mr. DWIGHT, Mr. BROWN, and Mr. BRYAN, with leave to report thereon by way of bill or bills.

The House resolved itself into a Committee of the Whole on the bill granting further time for locating military land warrants, and for other purposes; and, after some time spent therein, the bill was reported with an amendment thereto; which was read twice and agreed to by the House.

*Ordered*, That the bill, with the amendment, be engrossed and read the third time to-morrow.

Mr. NICHOLSON, from the committee appointed, presented a bill relating to ferries in the District of Columbia; which was read twice and committed to a Committee of the whole House to-morrow.

On motion, it was

*Resolved*, That a committee be appointed to inquire into the expediency of fixing the standard of weights and measures.

*Ordered*, That Mr. RODNEY, Mr. J. CLAY, Mr. TENNEY, Mr. S. L. MITCHILL, and Mr. T. M. RANDOLPH, be appointed a committee pursuant to the said resolution.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," together with a report of the Committee of Commerce and Manufactures thereon, made the twenty-seventh ultimo; and, after some time spent therein, the Committee rose and reported several amendments to the bill; which were twice read and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be read the third time to-morrow.

On motion, it was

*Resolved*, That the Committee of the whole House be discharged from further consideration of the report of the Committee of Commerce and Manufactures on laying a tonnage duty on foreign ships and vessels, to be denominated light-money; and the report of the same committee on various memorials and petitions for the encouragement

of domestic arts, trades, and manufactures; and that the said two reports be referred to the Committee of Ways and Means, with leave to report by bill or otherwise.

The House resolved itself into a Committee of the Whole on the supplementary report of the Committee of Claims, of the first ultimo, to whom was recommitted, on the twelfth of December last, their report on the petition of David Valenzin; and, after some time spent therein, the Committee rose and reported two resolutions thereupon; which were severally twice read and agreed to by the House, as follow:

*Resolved*, That provision ought to be made, by law, for restoring to the legal representatives of David Valenzin the value of the property captured from him in the Mediterranean by the American squadron, in the month of January, one thousand eight hundred and three.

*Resolved*, That provision ought to be made, by law, for indemnifying the individuals who, during the imprisonment of the said David Valenzin, contributed to his support, and who have defrayed the expenses of his interment.

*Ordered*, That a bill or bills be brought in pursuant to the said resolutions, and that the Committee of Claims do prepare and bring in the same.

A message from the Senate informed the House that the Senate, in their capacity of a Court of Impeachments, are ready to proceed on the impeachment of John Pickering, in the Senate Chamber, and that the said Chamber is prepared with accommodations for the reception of the House of Representatives. Communicating also an attested copy of the forms of proceeding agreed to by the Senate, to be observed on the trial of the said impeachment.

The said message was read: Whereupon,

*Resolved*, That the managers appointed on the second of January last, do now attend in the Senate Chamber for the purpose of conducting the impeachment against John Pickering, on the part of this House.

The resolution fixing the period for the adjournment of the two Houses was taken up.

Mr. NICHOLSON moved a postponement of the further consideration until this day week; which was disagreed to by yeas and nays—yeas 52, nays 62; when,

On motion of Mr. J. CLAY, a postponement was made to Monday—yeas 72.

The bill providing for the civil expense of the government of Louisiana, appropriating \$20,000, having passed through Committee of the Whole, was ordered to a third reading to-morrow.

Mr. THOMAS observed, that some time ago, when a resolution proposing an amendment to the Constitution designating the persons voted for as President and Vice President was before that House, a motion had been made and repeated, to consider at the same time another resolution proposing an amendment districting the States for the choice of Electors of President and Vice President; at that time, although he was decidedly in favor of amending the Constitution so as to direct the States to be districted for the choice of Electors by the people, he opposed these motions, because he was against

blending the two amendments in one proposition; he considered that each ought to stand on its own merits, but as the one designating the President and Vice President has been agreed to, and sent out to the States, and which he was happy to hear had been generally approved by the State Legislatures, he now wished to consider the other proposition; and in order to try the sense of the House whether they would take it up for this session or not, he moved that the resolution proposing an amendment to the Constitution districting the States for the choice of Electors of President and Vice President, be committed to a Committee of the whole House on the state of the Union.

The motion was lost.

### SATURDAY, March 3.

An engrossed bill granting further time for locating military land warrants, and for other purposes, was read the third time and passed.

An engrossed bill providing for the expenses of the civil government of Louisiana, was read the third time and passed.

The bill sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," together with the amendments agreed to yesterday, was read the third time. And on the question that the same do pass, it was resolved in the affirmative.

*Resolved*, That the title of the said bill be, "An act to provide for light-houses and buoys, in the cases therein mentioned, and to establish the district of St. Mary's for that of Nanjemoy."

On motion, it was

*Resolved*, That the Committee of Ways and Means be directed to prepare and report a bill to authorize the Secretary of the Treasury to suspend, for a limited time, the collection of bonds due to the United States by merchants of Norfolk and Portsmouth, in Virginia, who have suffered by the late conflagration of part of the town of Norfolk.

The SPEAKER laid before the House a letter from the Secretary of the Treasury, transmitting a statement of the emoluments of the officers employed in the collection of the customs for the year one thousand eight hundred and three, together with a letter from the Comptroller of the Treasury thereon; which were read, and ordered to be referred to the Committee of Commerce and Manufactures.

Mr. J. C. SMITH, from the Committee of Claims, presented a bill for the relief of the legal representatives of David Valenzin, deceased, and for other purposes; which was read twice and committed to a Committee of the whole House on Monday next.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That the Secretary of the Treasury be directed to lay before this House, as soon as may be, a particular statement of all the moneys which, since the establishment of the present Government, have been

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paid as fees to assistant counsel, and for legal advice in the business of the United States, distinguishing the several sums, when paid, for what services, and to whom paid, respectively :

The question was taken thereupon, and resolved in the affirmative—yeas 99, nays 3, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, John Boyle, Robert Brown, William Butler, George W. Campbell, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, David Hough, Benjamin Huger, Samuel Hunt, William Kennedy, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, James Mott, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Thomas Plater, Samuel D. Purviance, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Joshua Sands, Tompson J. Skinner, James Sloan, John Smilie, John Cotton Smith, John Smith of Virginia, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Philip R. Thompson, John Trigg, Philip Van Cortlandt, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston,

NAYS—Joseph Bryan, John Rhea of Tennessee, and Abram Trigg.

#### CONTESTED ELECTION.

The report of the Committee of Elections on the memorial of Andrew Moore, respecting the seat held by THOMAS LEWIS, was again taken into consideration.

MR. MOORE appeared at the bar, and spoke in favor of his memorial, claiming the seat of MR. LEWIS.

MR. JONES, the counsel of MR. LEWIS, then spoke in favor of his right to his seat.

MR. GRIFFIN moved to postpone the further consideration of the report until the first Monday in December; which motion was rejected—yeas 37, nays 73, as follows :

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Peter Early, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, Joshua Sands, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher,

Killian K. Van Rensselaer, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams and Marmaduke Williams.

NAYS—Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, John B. Earle, James Elliot, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, William Kennedy, Michael Leib, John B. C. Lucas, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Joseph B. Varnum, Matthew Walton, Richard Winn, Joseph Winston, and Thomas Wynns.

MR. J. CLAY spoke against the report, on the ground that the sitting member had not received due notice to examine witnesses on a canvass of votes in one of the counties.

MR. J. RANDOLPH spoke at length in favor of that part of the report which declares the sitting member not entitled to his seat, without expressing an opinion on admitting Andrew Moore to the seat; when the House adjourned without taking any question on the report.

#### MONDAY, March 5.

MR. NICHOLSON, from the committee appointed on the second instant, presented a bill supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee;" which was read twice and committed to a Committee of the Whole House to-morrow.

MR. NICHOLSON, from the committee, presented a bill making provision for the disposal of the public lands in the Indiana Territory, and for other purposes; which was read twice and committed to a Committee of the Whole House on Thursday next.

MR. S. L. MITCHILL, from the Committee of Commerce and Manufactures, to whom was referred, on the ninth ultimo, the memorial and petition of sundry citizens of Baltimore, in the State of Maryland, and mariners of the United States in the said city, made a report thereon; which was read, and referred to the Committee of the Whole House to whom was committed, on the third of January last, a motion respecting "the application of surplus moneys collected in the different ports of the United States for the relief and maintenance of sick and disabled seamen."

MR. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill for the relief of

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the sufferers by fire in the town of Norfolk; which was read twice, and ordered to be engrossed and read the third time to-day.

A message from the Senate informed the House that the Senate, in their capacity of a Court of Impeachments, will, at 12 o'clock, to-morrow, open the said Court, in the Senate Chamber, and be ready to proceed on the trial of the impeachment of John Pickering.

### CONTESTED ELECTION.

The House resumed the consideration of the report of the Committee of Elections on the petition of Andrew Moore, respecting the seat held by Thomas Lewis.

Mr. R. GRISWOLD moved a postponement of the further consideration of the report till the first Monday in November, that in the meantime opportunity should be given to ascertain facts.

Mr. DAWSON opposed the postponement.

Mr. J. CLAY also opposed the postponement; and declared, for reasons assigned by him, that he should vote in favor of the first part of the report, declaring that Thomas Lewis does not appear to be entitled to a seat, and against the second part, declaring Andrew Moore entitled to a seat, that a new election might be held.

A debate ensued on the motion to postpone, which continued the whole day; when the question was taken, and the motion lost—ayes 36.

The question was then taken by yeas and nays on the first member of the report, viz: that Thomas Lewis, not being duly elected, is not entitled to a seat in this House and carried in the affirmative—yeas 68, nays 39, as follows:

YEAS—Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, John B. Earle, Ebenezer Elmer, Wm. Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Wm. Helms, William Hoge, James Holland, David Holmes, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Matthew Walton, Richard Winn, and Joseph Winston.

NAYS—Willis Alston, jr., Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Peter Early, James Elliot, William Eustis, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, James Mott, Thomas Plater, Samuel D. Purviance, John Cotton Smith,

William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

The question was then put, that the House do agree to the second and last member of the said last clause of the report, in the words following, to wit:

“And that Andrew Moore, who has the highest number of votes, after deducting the before-mentioned unqualified votes from the respective polls, is duly elected, and entitled to a seat in this House.”

And resolved in the affirmative—yeas 64, nays 41, as follows:

YEAS—Isaac Anderson, David Bard, Geo. Michael Bedinger, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, John B. Earle, Peter Early, Ebenezer Elmer, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, William Hoge, James Holland, David Holmes, William Kennedy, Nehemiah Knight, Michael Leib, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Joseph B. Varnum, Matthew Walton, Richard Winn, and Joseph Winston.

NAYS—Willis Alston, jun., John Archer, Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Joseph Clay, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, James Elliot, Wm. Eustis, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, Samuel Hunt, John G. Jackson, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, James Mott, Thomas Plater, Samuel D. Purviance, Cæsar A. Rodney, John Cotton Smith, Henry Southard, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

Whereupon, the said ANDREW MOORE took his seat in the House as the Representative for the district composed of the counties of Botetourt, Rockbridge, Kenawha, Greenbriar, and Monroe, in the State of Virginia; the oath to support the Constitution of the United States being first administered to him by Mr. SPEAKER, according to law.

TUESDAY, March 6.

Mr. VARNUM, from the committee appointed, presented, according to order, a bill supplementary to the act entitled “An act more effectually to provide for the organization of the militia of the District of Columbia;” which was read twice, and committed to a Committee of the whole House to-morrow.



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*Ordered*, That the Committee of the whole House, to whom was referred, on the twenty-ninth ultimo, a report of the committee appointed "to inquire whether the moneys drawn from the Treasury of the United States, on account of the Marine Corps, from the year one thousand seven hundred and ninety-eight to the end of the year one thousand eight hundred and three, have been fully applied to the public service, in conformity to the existing laws," be discharged from the consideration thereof; and that the said report be recommended to Mr. LEFF, Mr. BOYLE, Mr. VAN RENSSELAER, Mr. A. MOORE, and Mr. N. R. MOORE.

Mr. THOMPSON, from the committee appointed on the Message of the President respecting the state of the public buildings in Washington, made a report, stating the objects on which the sum appropriated at the last session was expended, expressing their opinion that two annual appropriations of fifty thousand dollars ought to be made, and will be sufficient to finish the south wing of the Capitol in a commodious manner, and recommending an immediate appropriation of fifty thousand dollars.—Referred to a Committee of the Whole.

Mr. VARNUM moved a resolution for the appointment of a committee to consider if any and what alterations are necessary in the Military Peace Establishment.—Agreed to.

[Mr. V. founded this resolution on the expediency of increasing the number of surgeons' mates, rendered necessary by the increased garrisons, arising out of the possession of Louisiana, and on an opinion entertained of the propriety of substituting malt in the room of spirituous liquors.]

Mr. J. RANDOLPH, from the committee appointed on the seventh of January last, "to inquire into the official conduct of Samuel Chase, one of the associate justices of the Supreme Court of the United States, and of Richard Peters, district judge of the district of Pennsylvania; and to report their opinion whether the said Samuel Chase and Richard Peters, or either of them, have so acted, in their judicial capacity, as to require the interposition of the Constitutional power of this House," made a report thereon; which was read, and ordered to be referred to a Committee of the Whole House on Monday next.

A petition of the members of the Richmond James River Company, signed in behalf of the said company by Robert Pollard, their chairman, was presented to the House and read, praying that the assent of Congress may be given to an act of the General Assembly of the State of Virginia, entitled "An act for improving the navigation of James river;" which was read, and referred to Mr. CLORTON, Mr. CUTTS, and Mr. CONRAD; that they do examine the matter thereof, and report the same, with their opinion thereupon, to the House.

An engrossed bill for the relief of the sufferers by fire in the town of Norfolk was read the third time and passed.

The House resolved itself into a Committee of the Whole on the report of the Committee of Elections, to whom were referred, during the present session, a representation of Duncan McFarland, of the State of North Carolina, complaining of an

undue election of SAMUEL D. PURVIANCE, returned to serve in this House as a member for the seventh election district in the said State; as also sundry depositions and other papers transmitted from the counties of Montgomery and Cumberland, being part of the aforesaid seventh district, in the case of the said contested election; and, after some time spent therein, the Committee rose, reported progress, and were discharged from the further consideration thereof.

*Resolved*. That the Committee of Commerce and Manufactures be directed to inquire into the propriety of repealing the ninth section of the act, entitled "An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen;" and that they have leave to report by bill.

#### QUESTION OF ADJOURNMENT.

The House proceeded to the further consideration of the report of the joint committee of the two Houses "on the business necessary to be done by Congress in their present session, and when it may be expedient to close the same," made on the twentieth ultimo. Whereupon, the resolution submitted by the said committee being read, in the words following, to wit:

"*Resolved*, That the President of the Senate and Speaker of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on the second Monday in March next."

A motion was made, and the question being put, to amend the said resolution by striking out therefrom the words "second Monday in March next," it was resolved in the affirmative.

Another motion was then made and seconded, that the further consideration of the said resolution, as amended, be postponed until Monday next; and the question being put thereupon, it passed in the negative—yeas 44, nays 56, as follows:

**YAYS**—Willis Alston, jr., John Archer, David Bard, William Blackledge, Adam Boyd, Joseph Bryan, George W. Campbell, Thomas Claiborne, Joseph Clay, Manasseh Cutler, William Dickson, John B. Earle, Peter Early, William Findley, John Fowler, James Gillespie, James Holland, David Hough, Walter Jones, Michael Leib, Joseph Lewis, jr., John B. C. Lucas, Matthew Lyon, David Meriwether, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, John Rhea of Tennessee, Cæsar A. Rodney, Erastus Root, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, Samuel Taggart, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, and Matthew Walton.

**NAYS**—Isaac Anderson, Simcon Baldwin, George Michael Bedinger, John Boyle, Robert Brown, William Butler, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Davenport, John Dawson, Thomas Dwight, James Elliot, Ebenezer Elmer, Peterson Goodwyn, Andrew Gregg, Roger Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Helms, William Hoge, Benjamin Huger, William Kennedy, Nehemiah Knight, Thos. Lowndes, Andrew McCord, Nahum Mitchell, Anthony New,

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Gideon Olin, Beriah Palmer, Oliver Phelps, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Ebenezer Seaver, John C. Smith, William Stedman, John Stewart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, John Trigg, Joseph B. Varnum, Marmaduke Williams, Richard Winn, and Joseph Winston.

Another motion was then made, and the question being put, that the further consideration of the said resolution, as amended, be postponed until Friday next, it passed in the negative—yeas 40, nays 64, as follows:

**YEAS**—John Archer, David Bard, William Blackledge, Adam Boyd, Joseph Bryan, George W. Campbell, Thomas Claiborne, Joseph Clay, Matthew Clay, Manasseh Cutler, William Dickson, Peter Early, William Findley, John Fowler, James Gillespie, James Holland, Michael Leib, Joseph Lewis, jun., John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Samuel L. Mitchell, Andrew Moore, N. R. Moore, Jeremiah Morrow, Thomas Newton, jun., Joseph H. Nicholson, John Randolph, John Rhea of Tennessee, Erastus Root, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Abram Trigg, Philip Van Cortlandt, Peleg Wadsworth, Matthew Walton, and Joseph Winston.

**NAYS**—Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Phaniel Bishop, John Boyle, Robert Brown, William Butler, Levi Casey, Clifton Claggett, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, Thomas Dwight, James Elliot, Ebenezer Elmer, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, William Helms, William Hoge, David Hough, Benjamin Huger, Walter Jones, William Kennedy, Nehemiah Knight, Henry W. Livingston, Thos. Lowndes, Nahum Mitchell, Anthony New, Gideon Olin, Beriah Palmer, Oliver Phelps, Thomas Plater, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Cotton Smith, Henry Southard, Joseph Stanton, Wm. Stedman, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Lemuel Williams, Marmaduke Williams, and Richard Winn.

Another motion was then made and seconded to fill up the blank in the said resolution, as amended, with the words "fourth Monday in the present month." And the question being put thereupon, it passed in the negative—yeas 24, nays 83, as follows:

**YEAS**—John Archer, Adam Boyd, Thomas Claiborne, Joseph Clay, Frederick Conrad, John B. Earle, Peter Early, William Findley, Thomas Griffin, William Helms, James Holland, David Hough, William Kennedy, Michael Leib, Matthew Lyon, Samuel L. Mitchell, Jeremiah Morrow, Thomas Newton, jun., Joseph H. Nicholson, Cæsar A. Rodney, Erastus Root, James Sloan, John Smilie, and Peleg Wadsworth.

**NAYS**—Willis Alston, jun., Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, Phaniel Bishop, William Blackledge, John Boyle, Robert Brown, William Butler, Levi Casey, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John

Davenport, John Dawson, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Gaylord Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Hoge, Benjamin Huger, Walter Jones, Nehemiah Knight, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Andrew McCord, David Meriwether, Nahum Mitchell, Andrew Moore, Nicholas R. Moore, Anthony New, Gideon Olin, Beriah Palmer, Oliver Phelps, Thomas Plater, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Cotton Smith, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Matthew Walton, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

Another motion was then made, and the question being put, to fill up the blank in said resolution, as amended, with the words "third Monday in the present month;" it was resolved in the affirmative—yeas 81, nays, 27 as follows:

**YEAS**—Isaac Anderson, Simeon Baldwin, George Michael Bedinger, Silas Betton, Phaniel Bishop, John Boyle, Robert Brown, William Butler, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, Thomas Dwight, James Elliot, Ebenezer Elmer, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Hoge, Jas. Holland, David Hough, Benj. Huger, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, John B. C. Lucas, Andrew McCord, Nahum Mitchell, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Gideon Olin, Beriah Palmer, Oliver Phelps, Thomas Plater, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Ebenezer Seaver, John Smilie, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

**NAYS**—Willis Alston, junior, John Archer, William Blackledge, Adam Boyd, Joseph Bryan, Joseph Clay, William Dickson, John B. Earle, Peter Early, John Fowler, William Helms, Michael Leib, Joseph Lewis, junior, Matthew Lyon, David Meriwether, Andrew Moore, Thomas Newton, junior, Joseph H. Nicholson, John Randolph, John Rhea, of Tennessee, Cæsar A. Rodney, Erastus Root, Thomas Sandford, James Sloan, Henry Southard, Richard Stanford, and Matthew Walton.

And the main question being taken, that the House do agree to the resolution, amended to read as follows:

*Resolved*, That the President of the Senate and Speak-

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er of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on the third Monday in the present month:

It was resolved in the affirmative.

#### IMPEACHMENT OF JUDGE PICKERING.

Mr. NICHOLSON, from the managers appointed the second of January last, to conduct the impeachment, on the part of this House, against John Pickering, District Judge of the United States for the district of New Hampshire, made a report; which he delivered in at the Clerk's table, where the same was read, and is as follows:

"The managers appointed on the part of this House to appear at the bar of the Senate, for the purpose of supporting the articles of impeachment against John Pickering, District Judge of the district of New Hampshire, for high crimes and misdemeanors, report:

"That, on Friday, the second of March, the managers, agreeably to the directions of the House, appeared at the bar of the Senate to support the said articles of impeachment, when John Pickering was three times solemnly called, but did not answer or appear, either in person or by counsel. The President of the Senate then stated, that he had received a letter signed R. G. HARPER, accompanying a petition signed Jacob S. Pickering, who called himself the son of the party charged. The petition being read, it was found to contain a statement of a variety of matter, particularly the insanity of Judge Pickering, upon which the prayer of the petition was founded for a postponement of the trial to some future day. Mr. HARPER was called to the bar of the Senate; he entered, and stated, that he wished it to be distinctly understood, that he did not appear at the bar of the Senate as counsel for John Pickering, from whom he had received no authority for that purpose; but that his only object was to support the facts contained in the petition of Jacob S. Pickering, and the prayer thereof. There was a short pause; when Mr. HARPER rose again, and inquired whether his appearance, in support of the petition, would be construed as the appearance of John Pickering, by counsel? The President of the Senate answered, he presumed, that Mr. HARPER's appearance would not be considered as the appearance of John Pickering, by counsel.

"The managers, under these circumstances, felt themselves bound to object to Mr. HARPER's being heard in any other capacity than as counsel for the party who was impeached; and briefly stated their reasons for the objection. The Senate withdrew to a private chamber, where it is presumed the question was debated. The managers again appeared at the bar of the Senate, this day, and were informed by the President, that it had been resolved to hear Mr. HARPER in support of the allegations contained in the petition of Jacob S. Pickering, and the prayer thereof. The managers inquired at what point of time it was intended that Mr. HARPER should be heard, and whether this was to be a measure preliminary to the trial? The President of the Senate declared that he could not undertake to explain the resolutions of the Senate; but that their sense must be collected from the resolutions themselves. The managers then offered themselves ready for trial, declaring that they were prepared to open the prosecution on behalf of the House of Representatives; and that the witnesses were ready to prove the facts charged in the articles of impeachment. Upon this offer being made, the President of the Senate stated, that he con-

sidered it to be the sense of the Senate that Mr. HARPER was to be heard before the trial commenced.

"The managers considering this as an irregular step, and not believing that they ought to discuss any petition presented to the Senate from a person who was not a party to the impeachment, and this, too, before the party charged, although duly notified, had appeared, either in person or by attorney, withdrew from the Senate Chamber. They will not feel themselves either bound or authorized to appear again, until the Senate shall inform them that they are prepared to proceed in the trial, unless specially directed by this House."

Mr. SMILIE moved the following resolution:

*Resolved*, That this House doth approve of the conduct of the managers appointed to support the articles of impeachment in the case of John Pickering, as stated in their report of this day, and that the said managers do not appear at the bar of the Senate until they shall be specially instructed by this House.

Mr. ELLIOT moved to strike out the words "as stated in their report of this day."

Mr. ELMER remarked that the managers appeared to consider the proceedings of the Senate incorrect. This might be the case; but, from the information before him, he was not prepared to say so. He was of opinion that the Senate were the sole judges of the mode of conducting the trials before them.

Mr. SMILIE.—The Senate undoubtedly have the right of fixing their mode of procedure; but if that mode shall be such as to interfere with our rights, we have a right to insist upon them. Such a procedure, as has been adopted by the Senate, in the present instance, I have never heard of. But if the managers are satisfied with what has been already done, without any further act on the part of the House, I am also. It is my wish that they would inform us what they desire.

Mr. DANA.—It is very proper for the managers of an impeachment to apply to the House on the occurrence of a new case; but it is not necessary for the House to express an opinion of their conduct in every stage of the trial. It may be proper to give them instructions when they desire it; but it is not necessary to pass a vote of approbation or disapprobation on their conduct. In this case it is entirely useless, and may be injurious. I therefore move the previous question.

Mr. NICHOLSON.—The managers entertain no other desire but that of being guided, in the discharge of the duty devolved upon them, by the directions of the House. They would deem it a matter of extreme regret, were the House to disapprove their conduct on the present occasion. But no individual among them—I speak for myself, and believe I may likewise speak for all those associated with me—wishes a vote of approbation by this House. I would, therefore, be pleased if the gentleman would agree to strike out that part of the resolution which expresses such approbation. If the mover does not agree to this modification, I shall take the liberty of moving it.

Mr. SMILIE.—I cannot agree to strike out this part of the resolution, as it is, in my opinion, the most important part of it. The conduct of the Senate has met with the disapprobation of the

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managers, and they have withdrawn from the court. Their conduct must be right or wrong. It is proper for the House to express an opinion, whether it is correct or incorrect.

Mr. NICHOLSON observed that on further reflection he did not consider himself at liberty to make any motion, or to vote on any made, on the subject before the House.

Mr. G. W. CAMPBELL was of opinion that it would only be necessary for the House to express an opinion, in case they disapproved the conduct of the managers.

Mr. HUGER declared himself of the same opinion.

Mr. J. LEWIS moved a postponement of the further consideration of the motion until to-morrow.

Mr. SMILIE had no objection to the postponement.

All further procedure was arrested by the agreement to a motion of Mr. NICHOLSON to adjourn—yeas 60.

### WEDNESDAY, March 7.

The House resolved itself into a Committee of the Whole on the bill supplemental to the act, entitled "An act concerning the City of Washington; and, after some time spent therein, the bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

*Ordered*, That said bill, with the amendments, be engrossed, and read the third time to-morrow.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making appropriations for the support of Government, for the year one thousand eight hundred and four, with several amendments; to which they desire the concurrence of this House. And that the Senate, in their capacity of a Court of Impeachments, are now ready to receive and hear the managers appointed on the part of this House, in support of the articles of impeachment against John Pickering, District Judge of the district of New Hampshire.

### GEORGIA CLAIMS.

The House resolved itself into a Committee of the Whole on the bill providing for the settlement of sundry claims to public lands lying south of the State of Tennessee; to which Committee of the Whole were also referred, on the twentieth ultimo, a motion containing sundry resolutions "respecting claimants to the said lands under an act of the Legislature of the State of Georgia, passed in the year one thousand seven hundred and ninety-five."

Mr. J. RANDOLPH called for the reading of sundry resolutions lately offered by him on this subject. The resolutions having been read, Mr. R. said, when he had submitted them, it was with the view of trying the question then before the Committee as he thought fairly. It was no part of his intention to embarrass the operations of the friends of the bill, further than to take the sense of the Committee and of the House on each

specific proposition embraced by the resolutions. His wish, therefore, was, that the sense of the Committee, in the first instance, should be taken on the resolutions. If they should be rejected, the vote of rejection would be a virtual admission of the claims of 1795; and gentlemen might then modify the bill in such manner as might best please them to do.

The CHAIRMAN said he was of opinion, that the bill being first committed had the preference.

The first section of the bill was then read, and no objections made to it, as follows:

*"Be it enacted*, That the Secretary of State, the Secretary of the Treasury, and the Attorney General for the time being, shall be, and they are hereby appointed Commissioners on the part of the United States, to receive propositions of compromise and settlement from the several companies, and persons having claims to public lands lying west of the State of Georgia, and south of the State of Tennessee, derived under any act or pretended act of the State of Georgia; and the said Commissioners are authorized to compound and settle the same, in such manner as they shall deem most advantageous to the interests of the United States: *Provided, however*, That in such settlement due regard shall be had to the articles of agreement and cession entered into on the twenty-fourth day of April, in the year one thousand eight hundred and two, between the United States and the State of Georgia; and to the provisions of an act of Congress passed on the third day of March, in the year one thousand eight hundred and three, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee."

The second section was read, as follows;

*Sec. 2. And be it further enacted*, That the time limited in the last above recited act for exhibiting and recording evidences of claims in the Secretary of State's office, shall be, and the same is hereby, extended to the first day of March next: *Provided*, That nothing in this act contained, shall ever be hereafter construed to recognise or affect the said claims or any of them.

Mr. NICHOLSON said the bill provided for a settlement of claims to public lands south of the State of Tennessee, and the power was given to certain officers to make the settlement. Since the bill had been reported, he was induced to think that the settlement ought not to be binding without giving Congress an opportunity of considering it. He would therefore offer a section to this effect. Mr. N. accordingly offered a motion directing that the report of the Commissioners should be binding, unless this act be repealed within six months after the settlement shall be made; he observed that a similar provision had been made in the articles of cession between the United States and Georgia.

Mr. LUCAS opposed the amendment on the ground that it did not extend far enough; and contended for the propriety of vesting in Congress unlimited power over the subject; and moved to amend the motion of Mr. NICHOLSON, by adding "if approved by Congress shall be binding on the United States."

Mr. NICHOLSON said he would only observe that if this amendment should be agreed to, it would leave the business in the same situation in

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which it now stood, Commissioners having been already authorized to make a settlement, to be binding when ratified by the United States.

Mr. LUCAS's amendment was then rejected—yeas 45, nays 50.

The motion of Mr. NICHOLSON recurring,

Mr. BEDINGER said, the foundation was so bad that the superstructure could not be amended. It was degrading to the United States to compel Congress within six months to approve or disapprove the act of any three individuals. Suppose the settlement were made at the close of a session, it would be necessary in that case to convene Congress.

The question was then taken on Mr. NICHOLSON's amendment, and decided in the negative—yeas 38, nays 51.

Mr. J. RANDOLPH said, he would move an amendment, which would try the merits of the question, to wit: to strike out the words "or pretended act," and insert an additional proviso, at the end of the section, as follows: "And provided that no proposition of compromise or settlement be received by the said Commissioners, from any persons claiming under any act or pretended act of the State of Georgia, alleged to be passed during the year 1795."

A division being called for, the question was first taken on striking out the words "pretended act," and passed in the negative—yeas 44, nays 55.

The question was then taken on inserting the additional proviso at the end of the section, which likewise passed in the negative—yeas 46, nays 57.

Mr. VARNUM moved, that the Committee should rise, report their agreement to the bill without amendment, and that they had made some progress in considering the resolutions referred to them.

Mr. RODNEY hoped the the Committee would first consider the resolutions, and take a question on them. To rise in this stage of the business would be to give them the go-by.

Mr. ELMER.—The Committee have already sufficiently considered them; the amendment just moved embraces their substance. That amendment has been negatived; the other resolutions are confined to abstract points.

Mr. RODNEY.—I hope the Committee will not rise, but that they will consider the resolutions. It is said the principle of the resolutions is contained in the amendment offered by my friend from Virginia. I take those resolutions to contain premises from which certain inferences must flow. They contain what I believe to be the vital principles of government, and require no proof to elucidate them; like axioms in mathematics, they only require to be stated to be self-evident. It is not, therefore, my desire to go into their discussion, but it is my desire to learn whether we are agreed among ourselves. I wish to know whether the Government of Georgia were at any time "invested with the power of alienating the right of soil possessed by the good people of that State, in and to the vacant territory of the same, but in a rightful manner and for the public good." I wish to know why, "when the governors of any

people shall have betrayed the confidence reposed in them, and shall have exercised that authority with which they have been clothed for the general welfare, to promote their own private ends, under the basest motives and to the public detriment," it is not the "inalienable right of a people so circumstanced to revoke the authority thus abused, to resume the rights thus attempted to be bartered, and to abrogate the act thus endeavoring to betray them." I wish to proceed in the same manner, and see if the premises are not good and the inferences sound. If this shall appear to be the case, it will not be too late to adopt the amendment proposed by my friend, and express a decided opinion on the celebrated act of 1795. So much has been, however said on this subject, that I will not at present further trespass on the patience of the Committee.

Mr. MITCHILL.—These resolutions tend to involve Congress in the proceedings of the State of Georgia. I consider myself as one of those who, by assenting to certain acts heretofore passed by Congress, have consented to a hearing and compromise with the grantees. If this construction be correct, the Committee are precluded from adopting these resolutions; nor is it proper, in my opinion, for Congress to go into a view of the proceedings of Georgia on this occasion. That State is sovereign to a certain extent, and this Government possesses no right to interfere with her sovereignty. Attached to this sovereignty is the right of granting land belonging to her. But it is alleged that Georgia was, in the year 1795, in a disorderly state, and that a certain Legislature in that year did a certain act which a subsequent Legislature declared to be totally unauthorized. This may be so. It is certain the second Legislature declared the act of the first null, under circumstances of a very extraordinary nature. I do not, however, see that it is our duty to give an opinion whether the Legislature of Georgia acted wickedly or uprightly. Which ever course they may have pursued, I do not believe this body to be a Constitutional board of censors. We find frequent occasions enough on which, without going out of our way, our duty calls upon us to give our opinions. Believing this to be an occasion on which no opinion is required from us, and one which it is most prudent to pass by without giving such opinion, I wish not to vote for or against the resolutions. I am, therefore, for the Committee's rising and reporting the bill. If this motion does not succeed, I shall be prepared to move a postponement of the whole subject until the first Monday in December. By so doing, I am ready to avow that my object is to get rid of the discussion of the resolutions, and to avoid voting on them in detail.

Mr. J. RANDOLPH.—I had hoped that when these resolutions were sent from the House to the Committee, they would have received the respectful attention to which every such reference is entitled; and that the Committee would at least have deemed them worthy of some expression of opinion on them; that they would have deigned to say whether the reasoning or facts contained in them

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are or are not erroneous and unfounded. The gentleman from New York tells the Committee that, by an act passed at a previous session of Congress, a pledge has been given to a certain description of claimants under the act of 1795, to do something in relation to their claims. If so, is this a reason for not acting on the resolutions? No; it is a reason for taking them up and rejecting them. One of those resolutions says, and I am prepared to prove it true, and I call on gentlemen to show its falsehood, "that the claims of persons derived under the act of January first, 1795, are recognised neither by any compact between the United States and the State of Georgia, nor by any act of the Federal Government." I deny that they are so recognised. If they are, what can be easier than for the learned gentleman to refer to the compact under which they are recognised? This he cannot show, and hence his unwillingness to express an opinion. At an antecedent session we passed a law on this subject. The gentleman may have given his vote for this law under the impression he states, but it does not follow that the Legislature acted under the same impression; on the contrary, I know several gentlemen who voted for it, though hostile to the claims under the act of 1795, because it contained a general provision for claims, and did not particularly recognise those arising under the act of 1795; and now, because Congress have passed an act of a general nature, when it was notorious there are a variety of claims besides those under the act of 1795, and none of which are mentioned either in the compact or treaty with the State of Georgia, it is said we have given a pledge, and we are called upon to fulfil it. And this language is held by gentlemen who, in the same breath, have expressed a disposition to reject another description of claims. Could absurdity speak in stronger language? A general appropriation has been made by Congress for claims; the claims preferred are of two classes—those under the acts of 1789 and 1795. There might have been claims of an hundred other descriptions—for all these Congress have made a general appropriation—and yet we are told by gentlemen hostile to the claims of 1789 that we are pledged to provide for those of 1795. If we are pledged to satisfy one description, are we not equally pledged to the other? But the truth is, we have given no pledge. If we have, nothing is so easy as to refer to the statute book, and to point it out. No such pledge is recognised by our compact with Georgia. While I am up, permit me to say, if the compact with Georgia be construed according to its letter, the appropriation of \$5,000,000 ought to be considered as not embracing claims under the act of 1795, for the best reason in the world: the statute book of Georgia shows the reason. But, say gentlemen, we possess the power to satisfy these claims, though such satisfaction may not have been contemplated by our compact with Georgia. There must, say they, have been an understanding between the Commissioners of Georgia and our Commissioners in favor of compromising them, and therefore it is inferred that we ought to be governed more by the *quo animo* with which the compact was

formed than by its strict letter; it is accordingly attempted to be proved, that there was an understanding between our Commissioners and those of Georgia, that relief should be extended to claimants under the act of 1795. I am authorized by the Commissioners to say that this was not the case. Whether, therefore, we are governed by the strict letter of the contract, or by the *quo animo*, we cannot discover the grounds for this opinion. I have been told, in a way which removes all doubts, by the Commissioners on both sides, at least by a Commissioner of the United States having a great participation in the business, and by the Georgia Commissioners, that the stipulation in the compact was not inserted at the instance of Georgia, but reluctantly inserted by them at the instance of the Commissioners of the United States.

When I rose, it was no part of my intention to make this reply to the remarks of the gentleman from New York, who considers us as precluded by a former vote from putting aside all claims under the act of 1795. If this is the case, why not take up the resolutions and negative them? When under consideration, he can assign his reasons against them, and if he is of opinion they go to violate the rights of an independent State, that is a reason which no gentleman need be ashamed to avow. I trust, therefore, if the resolutions are false, either in principle or in fact, the Committee will say so. If they are passed over in silence by the Committee, I shall certainly move them again in the House. I ask gentlemen, therefore, to say how their difficulty will be got over? unless we are told that, being in possession of the Committee, the House will be precluded from acting upon them. If this is the course intended to be pursued, I hope gentlemen will avow it. No course that can be pursued shall prevent me from bringing out the sense of the House. Whether the question on these resolutions shall be attempted to be got rid of by the previous question, or by a postponement, I will have the sense of the House expressed to the public; for this is one of the cases which, once being engaged in, I can never desert or relinquish, till I shall have exercised every energy of mind, and faculty of body I possess, in refuting so nefarious a project.

Mr. ELLIOT said he hoped that the Committee would not be intimidated by the threats of individual members, or induced by any means whatever to swerve from the correct course of proceedings. He hoped they would act with independence and with dignity. In respect to the manner of performing the business of legislation, no member can claim the right of exercising dictatorial powers. Yet we are told that we shall, at all events, pursue a particular course of conduct, and shall be compelled to give a separate vote upon every member of a connected series of abstract propositions, although we may be of opinion that the whole are improper to be acted on at all. Are we to be governed by violence? Are we to resort, on this occasion, to revolutionary principles? Shall the *ipse dixit* of the honorable mover prevent our precluding, in such manner as we may deem proper, a discussion

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which we may consider as impolitic and useless? It will not be denied that the result and the only possible result of the whole chain of resolutions before us, has been negatived by a majority of the Committee, in the form of an amendment to the bill upon your table. I believe it to be a maxim as well established as any of those which have this day been asserted as incontrovertible, that a majority should govern in a republican Government. Mr. E. hoped the Committee would carry this correct theory into practice on the present occasion.

The observations of the gentleman from New York (Mr. MITCHILL) appear to me, said Mr. E. peculiarly impressive. But I have other objections to the resolutions, still stronger than those urged by that gentleman. I believe them repugnant to the spirit if not to the express letter of the Constitution of the United States. By that great national compact, all those rights and powers appertaining to the States, and not expressly yielded to the General Government, are reserved to the States respectively, or to the people. The Legislative powers of the State of Georgia, alluded to in these resolutions, belong to the class which has never been given up to the Union. We have no power, therefore, to make any decision upon their validity or invalidity, or to delineate the sphere or extent of their operation. It would be an act of usurpation. Whatever idea may be entertained of inquisitorial and censorial powers, in relation to other subjects, there can be no doubt that this would be an assumption, on the part of Congress, of inquisitorial and censorial powers over the State governments.

I hope the Committee will rise, and that an unnecessary and dangerous discussion will be closed as soon as possible. I regretted that the mover of the resolution announced his determination to compel us to record our votes upon a variety of propositions, however inconsistent with our own ideas of propriety and policy. I regretted that we were under the necessity of demolishing this blooming and wide-spreading tree of resolutions, by single branches. I am gratified that the gentleman from Massachusetts (Mr. VARNUM) has laid the axe to its root, and that we are enabled to prostrate it in the dust in a moment, "with all its blushing honors thick upon it."

Mr. EVSTIS said, in seconding the motion of his colleague, it was his desire that the bill should be reported, and the resolutions virtually dismissed from further consideration. Should the Committee, therefore, agree to rise, he should vote against their having leave to sit again on the resolutions. At this time, he should express no opinion respecting them. Whether they contained sound political axioms, or not, and such as the House ought to adopt, he would not say. He took it for granted they were offered to produce an effect on the conduct of the House in their Legislative capacity. Such was their avowed object. They all tended to one point, to the result embraced by the last resolution. When the mover of them offered the amendment just considered and rejected, he considered it as containing their sub-

stance; and he did expect that as a decision had been thus made on the conclusion, all necessity for a decision on the premises would be superseded. He did consider the determination of the Committee not to ingraft the amendment on the bill as foreclosing a discussion of the resolutions. He would submit it to the judgment of the gentleman from Virginia, whether a decision of the Committee on the resolution which contained the essence of the whole, was not conclusive. After such a decision he was almost led to inquire, whether it was in order to consider the rest? The Committee were not unconvinced that the gentleman from Virginia was deeply interested in the issue of this discussion. He had expressed himself with warmth. He wished to have the discussion again opened. But it does not follow that because any member makes a particular motion, that there is an obligation on the Legislature to consider it. The Legislature may have doubts of the propriety of considering it. The sameright is common to all. And if one gentleman, after the rejection of a motion, is indulged with the privilege of renewing it, other gentlemen being entitled to the same privilege, it will be impossible to progress with the public business. It is no imputation on any gentleman that a majority differs from him. The indisposition of a majority to consider a proposition is not a denial of its truth.

Mr. BEDINGER said he never expected to see the time when it would be out of the power of a respectable minority to express their opinion. On this subject he thought with his friend from Virginia. With him he would say to the opponents of the resolutions, examine them and see if they are not true. But some gentlemen seemed rather disposed to lay a bushel on the candle, to prevent their constituents from seeing what was going on. It was unnecessary to say more. If gentlemen were bent on pursuing their course, they must do it.

Mr. LYON said he wished to let his constituents know all he did. But from delicacy to the gentleman who had moved the resolutions, he wished to give them the go-by. As to the first resolution he would amend it by adding "of which such Legislature were judges." If that amendment should be rejected he would vote against the whole.

Messrs. LUCAS and SLOAN said a few words against the rising of the Committee.

Mr. MACON (Speaker) remarked that this question, like many others which presented themselves, had taken up a long time in discussing the preliminary point that might have been required on the resolutions. To rise and report the bill, without acting on the resolutions, would be a virtual rejection of them; especially as the House had determined to rise on the 19th. For one, Mr. M. said, he was ready to vote on the resolutions. If it were wrong to vote on them, it was certainly proper to vote against their reference. But why not vote on them? We may not all agree; but have we not a right to think for ourselves? Let us then meet them, and vote as we see best. Mr.



M. said he was more desirous of meeting the question, as he differed from those with whom he generally coincided in opinion. It may be said the resolutions embrace an abstract question. If so, gentlemen ought not to have allowed their reference. In the present stage of the business, no question could be taken unless in the Committee, or on a motion to discharge the Committee from their further consideration. Mr. M. said, he thought it the right of every member of a deliberative body to express his sentiments and record his opinion on any subject before it. This had always been the practice. He trusted, therefore, the Committee would not rise, but proceed to the discussion of the resolutions.

Mr. GRÆGG said, if it were earlier in the session, he might have no objection to a consideration of the resolutions, or if he thought, late as it was, that a discussion of them would take up but a short time. But he entertained no hope, from the variety of matter they contained, of the debate arising out of them being brought to a close within several days. The last resolution had been a short time since decided, in the shape of the amendment offered by the gentleman from Virginia. This certainly expresses the sense of the Committee on the last resolution. The first resolution likewise had been virtually decided on by a former vote of the House. The substance of it had been much depended on by those opposed to the bill, and it had been this which had regulated their former vote. Mr. GRÆGG said he believed the principle it contained was generally correct. Those, however, in the majority appeared to entertain a different opinion, and were thence opposed to the principle of the resolutions. Mr. G. said he had no objection to having his vote recorded to the resolution. But he did not perceive the necessity, at this time, when the session was pressing to a close, of occupying unnecessarily the time of the House. He should, therefore, be in favor of a postponement.

Mr. J. RANDOLPH.—Certain resolutions have been submitted by the House to this Committee, and when it is proposed to take them up, objection is made, on the ground that no opinion ought to be expressed upon them, and a motion accordingly brought forward for the Committee to rise. From the prospect before us, it is probable that the Committee will rise, and if leave be given them to sit again, which seems to be the object of some gentlemen, these resolutions will be equally out of the power of the mover, or their friends. How far gentlemen were warranted in saying that this Committee, which although it being inferior only to the House itself, is yet subordinate to it, and as much bound by its instructions as any other committee whatever, should refuse to be governed by those instructions, he would not undertake to say: but of this he would assure them that how much soever they might embarrass, they should not defeat the discussion of this subject, by any course which they might pursue. Consistent only in their hostility to the resolutions, gentlemen advocated the Committee's rising by the most opposite and contradictory arguments;

on the one hand contending that no opinion ought to be expressed upon them, whilst on the other, they assert that such opinion has been fully expressed. Irreconcilable in their objections, they are not less united in their object. When men for whatever reason, however opposite their premises, invariably agree in the same conclusion, by what arguments are they to be assailed? In this dilemma he was impelled much more by a sense of duty, than by any hope of success, to reply to some of the remarks which had fallen from various quarters of the Committee.

It was said, that the amendment which he had the honor to propose to the bill, which had been just then considered, embraced the substance of the resolutions, and that its rejection was a fair decision upon their merits. Permit me, (said Mr. R.) in the most explicit terms, to deny this position. One of these resolutions, and one only, to give gentlemen all that they can fairly ask, may have been virtually decided by the rejection of that amendment. But why will any one be hardy enough to assert that the question, "whether the act of Georgia, of 1795, was, or was not passed by the grossest corruption," was embraced in that amendment, or in any wise affected by the decision upon it? Surely not. Gentlemen who voted against that amendment have not, in debate, pretended to deny the fact. They cannot, they dare not deny it. He might go on and specify resolution after resolution, and show that no opinion had been expressed upon them. (one only excepted,) but the Committee would anticipate, in the recollection of their contents, all that could be urged to demonstrate the variance between them and the amendment. They must be satisfied of the feebleness and insufficiency of this objection. Before he touched on any other, he deemed it proper to answer some observations which had fallen from a gentleman from Massachusetts, (Mr. EUSTIS,) to the left. I must here, said Mr. R., express my satisfaction at finding myself supported by the conclusive authority of my respectable friend the Speaker, in the position which I assumed at the outset, that every member has a right to claim a decision on any question brought by him before the House, which they shall have agreed to consider. The gentleman from Massachusetts thinks differently. In his opinion no member has a right to interpret a refusal on the part of the House to act on his motion, into a personal disrespect to himself. I certainly have never expressed myself to the effect that this gentleman insinuates. If the zeal with which I have supported a claim, sanctioned by the highest authority here, has been so construed, it has been my misfortune, not for the first time perhaps, to give rise to erroneous impressions. From the warmth, however, which has been exhibited by the mover of these resolutions, whenever their subject has been agitated, the gentleman from Massachusetts would infer that they are the offspring of feeling, rather than of judgment. I could wish, sir, when that gentleman condescends to notice any remarks of mine, he would confine himself to their substance and matter, and not pass over these, in order to fix upon

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the manner in which they are delivered. If the warmth with which an opinion is supported be made the standard of its truth or falsehood, it will have been my misfortune, perhaps, never to have advanced a correct position on this floor. Some men have a smooth, oily, insinuating address; they can make you a proposition ruinous to yourself or to your country, with a face couched in smiles. Others can scarce offer you an interchange of civility without wounding your feelings; it is their misfortune. But I trust that the adventitious circumstances of temperament and complexion are not to be made the criterion of truth; that propositions and arguments will be decided here, upon their own intrinsic merits, and not by considerations altogether foreign from them. On other occasions we have heard much of party spirit and the rights of minorities. But this is one of those cases in which the tocsin of party spirit and an overruling majority will not answer the purpose in view. This is a season in which the old dark maxim "*divide et impera*" is to be resorted to; in which personal pique and private jealousies shall enable an hopeless opposition to hold the scales of this House—once hopeless, though now like Antæus rising from their fall. From observations made out of doors, I expected to hear these resolutions treated as an encroachment on the rights of Georgia, and by the very men, too, who did not scruple to usurp the jurisdiction of a great portion of the country in question, (the Mississippi Territory,) in contempt of the rights and in defiance of the remonstrances of that State. Yes, I was prepared to see some *crocodile* tears shed over the violated rights of the States. If experience did not prove that war, oppression, and misery, are embraced by the greater portion of mankind, in preference to peace, happiness, and freedom, it would be no difficult matter to demonstrate that these resolutions, so far from infringing upon the rights of Georgia, are in direct support of those rights, as asserted by her in the most solemn manner, at this day.

I little expected to stand on this floor, in the list of persons hostile to State rights—to be charged, as the gentleman before me has expressed himself, with having brought forward propositions subversive of the rights of the States. The sovereignty of the States has ever been the cardinal principle of my political opinions, and in the outset, I enlisted under the banner of State rights in opposition to federal usurpation. The doctrine of exalting the General Government on the ruin of the authority of the States, is at length exploded, and those who have heretofore been most conspicuous in encroaching upon the rights of the States, generally, and upon those of Georgia in particular, are now foremost in displaying their zeal for both. I cannot but rejoice at the acquisition which this cause has made. But to those of its friends, who are too new to it to understand its interests as yet, I would recommend, that they would take the conduct of the Georgia delegation as an evidence of the rights and interests of that State. They surely are not so destitute of information or fidelity, as to misunderstand or abandon the rights of the people whom they represent.—

So long, however, as I have the honor of concurring with them in opinion, I shall be very easy under any clamor which the new friends of Georgia and of the rights of States may endeavor to excite. If, however, gentlemen are unwilling to rely on the opinions of so few, however respectable men, I refer them to the act of the Legislature of Georgia herself, generally called the rescinding act, passed under circumstances of unparalleled unanimity and confirmed by the general voice of the people, who subsequently recognised it in, and ingrafted it upon their constitution. If still they remain dissatisfied, I would ask them if the recognition of the claims against Georgia, in the bill which they are so eager to pass, be not equally a violation of the rights of that State, with the rejection of those claims. Does not the bill before you, in pronouncing upon the validity of the act of Georgia, equally involve the principle against which gentlemen protest so loudly, with the resolutions themselves? They have their choice either to pronounce the corrupt act of 1795, or the rescinding act of 1796, invalid. Are not the rights of Georgia as much affected by the one as by the other? and even more, by annulling the act of 1796, since she alone recognises that to be her own. But gentlemen not only annihilate this act, without a scruple, but they support a bill predicated upon a principle which involves the validity of the other also, and then charge us with bringing forward propositions which, because they pronounce upon the acts of Georgia the same sentence which she herself has passed upon them, they denounce as subversive of the rights of Georgia, and with them, of every State in the Union. Will not these gentlemen give themselves the trouble to examine their right to legislate on this subject, at all? Will they refuse to see that we hold it by solemn grant from Georgia herself, without which we could not constitutionally pass any law in relation to the territory in question? It is this only which authorizes us, in any shape, to interfere in a matter which, otherwise, would exclusively belong to her. The act of interfering, and not the manner of that interference, with subjects cognizable by the State alone, would constitute an infraction of her rights. The bill which is advocated by gentlemen themselves would equally infringe the rights of Georgia with the provision which has been attempted to be inserted in it, but for our compact with her. Will any one pretend to say that these resolutions have for their object anything forbidden, either expressly or by implication, in that compact? That it stipulates for any provision for the claims under the act of 1795? Would the Georgia delegation unite in defeating those stipulations if any such indeed existed? Is not the right to reject involved in the right to grant those claims? Georgia having transferred the soil and jurisdiction of the country to the United States, subject to the existing claims against it, we have acquired precisely the same right over it that she herself had. We stand in her shoes. There cannot be a clearer position on earth, than that the moment she transferred to us

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those lands, subject to prior grants, (those grants not being specifically enumerated,) we became the judges of their validity. So sensible were we of this that we have appointed Commissioners to audit and adjust those claims—and I repeat, that the bill which is so strenuously supported by the opponents to these resolutions does pass upon the validity of the acts of 1795 and 1796, modifying and abridging the grants under the first, and altogether abrogating the last, to say nothing of the act of 1789, under which the Virginia and South Carolina companies claim. But, sir, these unfortunate resolutions, it seems, contain that damnable heresy in politics—abstract propositions. What are many clauses of your Constitution—of your bills and declarations of rights—but so many series of abstract principles? Let us examine whether the propositions, of whatever description, contained in these resolutions, are indeed foreign to the subject before the Committee—whether, on the contrary, they are not intimately and indissolubly connected with the provisions of the bill on your table. If, indeed, they were so vaguely expressed, or so loose in their application, they might have been safely left to expire in their own imbecility. But gentlemen have seen in them the evil genius of this bill, and hence their opposition.

Here Mr. R. read the first and second resolutions:

*“Resolved, That the State of Georgia was at no time invested with the power of alienating the right of soil possessed by the good people of that State in and to the vacant territory of the same, but in a rightful manner and for the general good.”*

Who will deny it? If Georgia has made a valid contract we must execute it. If invalid, there is no obligation on us to perform it.

*“That when the governors of any people shall have betrayed the confidence reposed in them, and shall have exercised that authority with which they have been invested for the general welfare, to promote their own private ends, under the basest motives, and to the public detriment, it is the inalienable right of a people, thus circumstanced, to revoke the authority thus abused, to resume the rights thus attempted to be bartered, and to abrogate the act this endeavoring to betray them.”*

I am afraid if we deny this position we have no title to show for our own existence as a nation.

Mr. R. here read the third resolution:

*“That it is in evidence to this House that the act of the Legislature of Georgia passed on the 7th of January, 1795, entitled an act &c., was passed by persons under the influence of gross and palpable corruption, practised by the grantees of the lands attempted to be alienated by the aforesaid act, tending to enrich and aggrandize, to a degree almost incalculable, a few individuals, and ruinous to the public interest.”*

If there be any objection in my mind to this resolution, it is that it does not sufficiently detail what it contains in substance; that the vendors of this iniquitous bargain being at the same time the vendees, the contract was therefore void. On a former occasion, when this position was advanced, we were told that, on the same principle, the sale of our western lands might be set aside, since members of the Legislature speculated in

them to a vast amount. However indecorous and reprehensible this may have been in persons in their situation, there was a wide and material difference between the sales made by the United States and a pretended sale like this—not of a few acres, but of millions; not of sections and half sections, but of thousands of square miles; not measured by chains and perches, but by circles of latitude and longitude; not made in the face of day, on public notice, for a reasonable equivalent, and with the general participation of the citizens, but bartered away in the dark by wholesale for the emolument of the partners in the job, for a pretended consideration too paltry to give an air of validity to the contract; and even this sum, pitiful as it was, had since been drawn from the treasury of Georgia by those who had paid it, or others claiming under them by an act yet more infamous and disgraceful if possible than that by which it was deposited there. But it is not my intention at this time to enter into the particulars of this transaction. In the former stages of this bill I have endeavored to give a faithful history of it. Weak and vain, however, must be every effort to do justice to this enormous and atrocious procedure. Some gentlemen indeed will tell you that we have no proof of these facts. The depositions are *ex parte*, say they, and therefore in strictness of law cannot be considered as evidence. But when was it known that men could not legislate on less than legal evidence? Have we not the same evidence of the fraud that we have of the existence of the claims? Are not the evidences of both in the same report? the same proof of the corruption as of the claims? They both hang together. Do not gentlemen themselves admit the existence of the corruption? On what other principle could they justify their proposition to withhold from these harpies the whole of their glorious booty, and put them off with a comparative pittance? Set aside the evidence of the corruption, and it cannot be denied, that instead of five, they are entitled to fifty millions of acres. I repeat they are entitled to all or nothing. We at least are consistent, we deny their title to anything, and we propose to give them nothing. Gentlemen on the other side can support the claim to the five millions, which they propose to give, only by arguments which justify a claim to ten times that amount.

Mr. R. here read the fourth resolution:

*“That the good people of Georgia, impressed with general indignation at the act of atrocious perfidy and unparalleled corruption, with a promptitude of decision highly honorable to them, did, by the act of a subsequent Legislature, passed on the 13th day of February, 1796, under circumstances of peculiar solemnity, and finally sanctioned by the people, who have subsequently ingrafted it on their Constitution, declare the preceding act and the grants made under it, in themselves null and void; that the said act should be expunged from the records of the State and publicly burnt—which was accordingly done—provision at the same time being made for restoring the pretended purchase money to the grantees, by whom, or by persons claim-*

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ing under them, the greater part of the said purchase money has been withdrawn from the treasury of Georgia."

This is another of the resolutions not even substantially embraced in the proffered amendment, which has been rejected by the committee. The evidence of the facts contained in the former part of it is to be found in the act of Georgia, which I hold in my hand, commonly called the rescinding act. The report of our Commissioners furnishes the proof of the withdrawal of the money, with a detailed statement of that nefarious business, which in the former stages of this bill has been amply explained. In the rescinding act the Legislature of Georgia take other objections to the usurpation of 1795, besides those founded on its corruption. They deny the Constitutional right of their predecessors to have made such an alienation of the public domain, even with honorable views and for a fair equivalent. They declare that their Constitution prescribes a certain mode whereby vacant lands shall be sold and granted, and that the pretended act of 1795 is void, not only from its corruption, but from its contravening those provisions. This is a weighty and vital objection. The slow yet equitable method known to the constitution of Georgia of laying off new counties, granting out the lands, and when they were appropriated and settled, laying off and settling others, was ill-suited to the gigantic rapacity of the Assembly of 1795 and their ravenous accomplices, who grasped at every acre within the nominal limits of the State, whether covered by Indian titles, or whether those claims were extinguished. [Here Mr. R. read a copious extract from the act of Georgia above-mentioned in support of what he had advanced.] The Committee will see that the whole of this act, so far from being an abandonment of the rights of the State, goes on the ground of asserting and supporting them. It recognises every principle and every fact (the withdrawing of the purchase money excepted, which was posterior to it) contained in those resolutions. Can they then be subversive of the rights of Georgia? Gentlemen of the most tender consciences in relation to State rights have but the alternative of deciding against the act of 1795, or against the act of 1796, of justifying the Assembly of 1795, or supporting that of 1796. Mr. R. here read the fifth resolution, as follows:

"That a subsequent Legislature of an individual State has an undoubted right to repeal any act of a preceding Legislature, provided such repeal be not forbidden by the constitution of such State, nor of the United States."

Can there be a more undeniable position? Mr. R. here read the sixth resolution:

"That the aforesaid act of the State of Georgia (the rescinding act) was forbidden neither by the constitution of that State, nor by that of the United States."

If it were thus forbidden it may easily be shown.

Mr. R. here read the seventh resolution:

"That the claims of persons derived under the aforesaid act (the corrupt act) of the 7th of January, 1795, are recognised, neither by any compact between the

United States and the State of Georgia, nor by any act of the Federal Government."

This fact, although none will venture openly to contradict it, has not been sufficiently attended to or understood. I must beg leave in answer to the objection of some gentlemen here, to repeat what was advanced by me in a former discussion of the subject. Georgia ceded this territory to us subject to certain specified claims, arising under Great Britain, under Spain, and under her Bourbon act, as it is commonly called, which has no relation to any of the Yazoo acts, as they are termed. For these claims we have stipulated to provide, moreover paying her a certain sum out of the first proceeds of the lands, as a consideration for the grant. Besides the above-mentioned claims there were others not recognised by, or provided for, in our compact. In relation to these, Georgia gives a reluctant assent, (which is to be inferred as well from the expressions which are used in the treaty as from the declaration of the Commissioners on both sides,) that we may apply, not exceeding five millions of acres to quiet other claims, generally, without specifying what they are—the appropriation not to exceed the amount above, and to be made within six months from the ratification of the compact, or to revert back to Georgia. Among the claims of this vague description may be ranked those of the Virginia and South Carolina Yazoo companies (under the act of Georgia of 1789, and those arising under the corrupt act of 1795.) We are at liberty therefore to give these reserved five millions of acres to either, or to both, of those descriptions of conflicting claimants, but we are certainly not bound to bestow an acre on one of them, either by compact with Georgia, or by our own act of appropriation. When that act passed it was at the close of our session; there was not time to investigate any of these claims. It was then understood that some of them were equitable, and not founded in corruption. If we had not then made the appropriation, the term within which we were permitted to make it, would have elapsed before the next session of Congress. We therefore made the appropriation in the same general terms of our compact with Georgia, pledging ourselves to none, while we thereby reserved the right of examining and recompensing all, in case they should thereafter be found to deserve it. The day of investigation having arrived, you are invited to decline it altogether, and hold that the reservation of the right to give, is converted by some political magic into a duty, and that too by those who propose to give nothing to the companies of 1789, although their claim is embraced by the general provision of our compact with Georgia, and by the terms of our act of appropriation as much as the claims of the companies of 1795. The appropriation, like the compact, referring to neither of them expressly, but to claims other than those English, Spanish, and Georgian claims, (under the Bourbon act,) before mentioned. The position of the seventh resolution, that these claims are recognised neither by any compact between us and Georgia, nor by any act of our own, being thus undeniably established, the conclusion

in my mind irresistibly follows from it, and from the preceding facts and principles, "that no part of the five millions of acres reserved for satisfying and quieting claims to the lands ceded by the State of Georgia to the United States, and appropriated by the act of Congress passed at their last session, ought to be appropriated to quiet, or compensate, any claims derived under any act, or pretended act, of the State of Georgia, passed, or alleged to have been passed, during the year 1795."

I cannot perceive the ground on which the opposition to these resolutions has been made. Although some have denied and others have evaded some of their positions, they have been generally admitted as true. The objection that they trench upon the rights of the States seems too futile to justify the opposition they have received. That they are inapplicable to the subject before us, would appear yet less cause for the warmth with which they have been attacked. It is their bearing upon that question, it is their vital connexion with the bill, which seems to constitute the strong objection to them. Gentlemen cannot deny them; they see that they cannot pass the bill before you if they enter up their concurrence with them on your journals; they therefore move to postpone. Be it so. But if they pass the bill in question they do an act which whole ages of political penance will never atone. I have during the whole course of this discussion listened with profound attention, and the words expediency and policy alone have reached my ears. But I cannot comprehend that expediency which would countenance fraud, nor the policy which would foster corruption. During the agitation of this question, in every different shape which it has assumed, I have acted as my conscience and principles impelled me. It will be a source of never-failing self-gratulation that I have done so, as it would have been of remorse had I done otherwise. Whatever be its ultimate fate, it has already abundantly appeared that party spirit, personal influence, and a domineering majority, of which we have so frequently heard, have no existence within these walls but as engines of debate. Such at least is the state of one side of the House. Persons of every political description are marshalled in support of these claims; we have had to contend against the bear of the arctic and the lion of the torrid zone. I have only to wish that those gentlemen who are our opponents may, on returning among their constituents, feel the same pleasure on meeting them which I shall feel; and which I am sure is anticipated by those with whom I have the honor of acting on this occasion.

Mr. BOYD hoped the Committee would not rise before they had decided on the resolutions one by one, and gentlemen allowed a full opportunity of declaring their opinions. He would say for himself that, in his opinion, Congress did not possess the right of censuring the proceedings or taking away the rights of a State. If they acted wrong, their constituents would put them right.

Mr. ELLIOT.—It is certainly unnecessary to reply to the arguments of the gentleman from Vir-

ginia. The sense of the House has repeatedly been ascertained upon this subject. I will only observe that the inconsistency which the gentleman believes that he has pointed out in the conduct of those who oppose his resolutions, exists only in his own imagination. We make no decision, we give no opinion, upon either of the acts of the State of Georgia. We carefully avoid that view of the subject, and consider the question as a question of expediency and policy only.

I rejoice to hear, from a gentleman of high political character on this floor, that it is already doubted whether party spirit any longer exists within these walls. But I cannot consider the opinion as the result of cool reflection. Could I believe that this delightful dream of the imagination is to be realized this day, I would hail it as the most auspicious that has beamed upon our country since the declaration of independence. Circumstances of a most imperious nature are constantly occurring, which admonish us to sacrifice our party passions and our ancient prejudices, upon the altar of our country. But many distinguished men have believed that parties are useful in Republics; and the day of their union in our own is yet very distant.

The gentleman from Virginia has apologized to the Committee for that warmth which he so frequently displays, and which, we are told, is occasioned by the adventitious circumstances of constitution and complexion. On this ground, perhaps, the gentleman does not stand alone; and I shall always be as ready as any other member to ask pardon for having injured the feelings of any one. But some of his remarks are very extraordinary. We are told that not only are men of every shade and character of political distinction united in opposition to these resolutions, but even the furious and ferocious animals of the forest; "the bear of the arctic and the lion of the torrid zone;" the bear that roams over the cold regions of the North, and the lion that wanders in groves warmed by the beams of a vertical sun. Was this allusion personal, or otherwise? It is impossible for me to answer the question. But it will be recollected, by those who have read the fables of Æsop, that even the majestic lion, when fallen from his former dignity, was abused by a very inferior animal, an animal distinguished as the emblem of stupidity and folly.

I shall conclude with the observation that the minority will have no just reason of complaint against the majority, if the resolutions should be virtually rejected by the rising of the Committee. The honorable mover has been indulged, on the present occasion, in an elaborate and ingenious argument in support of the resolutions; and other gentlemen, who hold the same opinions, may claim the same privilege.

Mr. SMILIE did not think it of much utility to be spending time about lions and bears. His wish was to consider the subject. When he looked at the resolutions, and the quarter from which they came, he was certain they proceeded from the best motives. He believed, also, it was a respect due to every gentleman to give him an opportu-

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nity of supporting any motion he might bring forward; and he should be sorry if this right should be denied. In this instance it had been granted; and the mover of the resolutions had supported them with a degree of ability that did him honor. At the same time, how undoubted soever might be the truth of these remarks, a proposition offered may be of such a nature as to render any expression of opinion by the House improper. It may be improper in point of time, matter, or consequences; and, under such circumstances, a decision may be properly avoided by a motion similar to that before the Committee. This, then, is the simple question, whether it is expedient to decide it at this time on the abstract propositions contained in these resolutions. Those who think it is, will vote against the Committee's rising, while those who hold a different opinion will vote differently. Mr. S. concluded by observing, that he considered the propositions, generally considered, as true; but, he was of opinion that it was improper at the present time to express any opinion respecting them. He should vote, therefore, for the rising of the Committee.

Mr. LUCAS declared himself hostile to any compromise with the claimants.

Mr. J. RANDOLPH said he was sorry to be so troublesome; but when he found he entertained different sentiments from a gentleman whom he highly respected, it became incumbent on him to sustain, as well as he could, his own opinions. The gentleman from Pennsylvania has stated a proposition, which may be true in the abstract; and yet it may not follow that, in this instance, it is not advisable for the Legislative body to express an opinion.

No one would be hardy enough to deny the abstract position laid down by the gentleman, and yet the inference deduced from it may be totally unsustainable. His reasoning amounts to this: Because it is not proper for a Legislative body to express an opinion on an abstract proposition having no connexion with the business before them, if a member should bring forward a proposition that an acid and an alkali united produce a neutral salt, the Committee could, notwithstanding its truth, throw it out. But this is not the nature of the propositions before us? Have they no bearing on the subject under consideration? Because we refuse to express an opinion on abstract motions having no relation to business before us, shall we refuse to express an opinion on subjects that have? Certainly not. Mr. R. said he was rather of the opinion that if these propositions had so little bearing as some gentlemen represented, they would not have received so strenuous an opposition. Had he brought forward a proposition that Lake Erie was the boundary between Canada and the United States, or that a whole was equal to its parts, the Committee would have sneered at its folly or stupidity, and have given it a silent decision. So, if these propositions had been considered trifling or harmless, they would have been easily passed over. But, they are not so considered. They are not, said Mr. R., mere abstract truths; but they probe to the very vitals the question before you; they

contain facts which give the death-blow to the claims of 1795. Are specific proofs of corruption abstract propositions? Facts are not abstract propositions. If gentlemen are disposed to doubt them, let them appoint a committee to examine into their truth. Let them not attempt to get under, over, or around the question; but let them meet it. Mr. R. said he was sorry to be deserted by any of his friends, or to desert those with whom it was his honor, on most occasions, to act. Nor was there a gentleman on the floor with whom he differed with a livelier regret than the gentleman from Pennsylvania, (Mr. SMILIE,) not only from a respect for his political character, which he had known long before he knew him, but because he had heretofore acted with him hand in hand.

Mr. SMILIE observed that his remarks had been applied to the proposition only, and not to the bill.

Mr. RODNEY said he was willing, after the able discussion of his friend from Virginia, with whom it was his pride and pleasure to act, to decline saying anything on the subject. He only wished to have a vote on the resolutions, and to have an opportunity in the House of recording it.

Mr. ELMER could not conceive that gentlemen could reasonably desire any more than a vote on the result of the abstract principles and facts, which had been already decided on. The facts may be true, and the principles likewise, in some senses, but not in others. What can gentlemen require more than the result of facts and principles; and why go into an investigation of facts not necessary to act upon? All that is necessary is so far to decide facts and principles as they are connected with the bill.

The question was then taken on the rising of the Committee, and carried—ayes 57, noes 48.

The Committee accordingly rose and reported in part their agreement to the bill, with a request to have leave to sit again.

An adjournment was moved and lost—ayes 37, noes 57.

On the question of leave being given to the Committee to sit again, Mr. J. RANDOLPH said he presumed the question about to be put was dictated rather by a compliance with form than substance. Is it possible, after the House has sent the resolutions to the Committee and the Committee have refused to act upon them, that they will, by a kind of legerdemain, give them leave to sit again, thus keeping the resolutions exchanged and preventing the sense of the House from being taken on them? I do not believe, said Mr. R., that the House will consent to countenance such a procedure. If this, however, shall be the course pursued, I shall bow on this, as on all other occasions, to the will of a majority; but my submission will flow not from the heart but from necessity. But I cannot bring myself to believe, that after the Committee have refused to act on the resolutions, by declining to do anything more than report the bill, that the House will keep the resolutions in a state of abeyance till they shall be dismissed by an adjournment.

Mr. NICHOLSON said if the mover of the resolutions did not wish the Committee to have leave to sit again, he hoped leave would be refused.

Mr. HOLLAND said he trusted there was no gentleman that could not allow that the resolutions had some bearing on the question before the House. They, in truth, had a very decisive bearing, and Mr. H. said he believed if they were fully investigated, many gentlemen heretofore friendly to the bill would be hostile to it.

Mr. RODNEY hoped the Committee would at present receive leave to sit again. If gentlemen should not hereafter be ready to allow them leave to sit, when the order comes up, they may move to discharge them from the further consideration of the resolutions. As they were then in the possession of the Committee, he hoped their friends would vote in favor of their having leave to sit again.

Mr. EUSTIS hoped the Committee would not obtain leave to sit again. If he understood the decision of the Committee it implied the adoption of the principle that the claims in question may be compensated out of the five millions without investigating the circumstances attending the passage of the acts of Georgia of 1789, 1795, or 1796. Whether this decision is just or honorable will be decided by a higher tribunal than this House. But, if ever respect is due to the decision of a majority, it is in this case, after the opinions of gentlemen have been so fully expressed. Why shall the Committee of the Whole sit again? To debate a proposition, which they have determined not to consider, and which they have declared to have no bearing on the subject before them? There can be no further discussion. Have not these resolutions, so far as regards their substance, been already fully advocated by their friends? It is not only consonant with the principles of justice and honor, that justice which regards the public interest, but it is likewise consonant with the rules of the House that when a bill and certain resolutions are referred, and the bill reported, which amounts to a supercession of the resolutions, that leave should be refused to the Committee to sit again. The resolutions, in this instance, were referred as the groundwork of a system hostile to the bill. They were intended to declare the act of Georgia invalid, as a reason for rejecting the bill. If such had been the desire of the House, would they not have suspended the bill, and have given the resolutions the investigation they merited? By taking up the bill, and rejecting the substance of the resolutions, the Committee have given a proper satisfaction to the mover and his friends. It is a misfortune that, on this question, those who generally act together are divided; but it is a misfortune from which no Legislative body, or set of men, is exempt. When such occasions do occur, it is the duty of the minority to submit, and not by unnecessary opposition to widen the difference. If one gentleman is strong in his own opinion, he should have candor and indulgence for those who differ from him, and may feel equal conviction of the truth of their own belief. A disposition to leave

the ground of reason appears to me always to have a tendency to draw the attention of the House from the merits of the question, and to lead it astray from the path of duty. It is not my personal interest, said Mr. E., to advocate or oppose these claims. I have no expectation of gain from their allowance or rejection. But, while I allow to other gentlemen a sacred regard to the public good, a sense of public duty, of honor, and of justice, I claim the same respect for myself and those who act with me, however different our opinions on this particular point. We are as conscious of our integrity as those who oppose us. I am sorry the character of this debate compels me to declare that I can consider no observation made during the course of it as personally applicable to me; and I wish that the same were the case with other gentlemen. There is, indeed, cause for regret that anything urged on this occasion should have been considered personal. For myself it is my practice to urge arguments grounded on the nature of the case, and not on the passions or prejudices of others; and, while I extend this right to others, I claim it for myself.

With regard to the resolutions, they have been fully discussed by the mover and his friends. I consider some of them as containing abstract propositions from which the House cannot dissent, as being universal principles in politics; others as of a doubtful nature; but the whole of them, so far as they are applied to the Legislature of a State, unwarrantable, impolitic, not to say unconstitutional. But I will say, when this House adopts the language of abstract propositions and applies it to the Legislature of a particular State, we tread on dangerous ground. If it be said, we barely speak our opinions, I ask whether we came here for that purpose? No; we came here to legislate. If the language is intended to apply to the Legislature of a particular State, I inquire whether this House possesses any such power? Is it thereby intended to warn one State of her course of proceeding? Is it intended to guard any other State against it? If so, the act is unconstitutional. Should, therefore, the resolutions be proposed again and again, with my present view of the subject, I shall consider it my duty to move the previous question. I am unwilling to decide upon them. The more I consider them, the more unwilling I find myself. They point to the specific act of a sovereign State. May there not be other acts of other States equally reprehensible; and can we justify to ourselves as an impartial body the passing on one and not on all? Are there not other Legislatures who have disposed of the public lands in cases where their own members were part owners? If there are, will not this be an act of partiality?

I hope I shall not be understood as the advocate of the Georgia transaction, or of any part of it, or of other Legislatures who have pursued a similar course. No; I am of opinion that it is inconsistent with the honor and duty of a legislator to convey land with one hand and receive it with another. But I appeal to gentlemen whether this has not been the practice? Knowing it to have



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been the practice, I am unwilling to express the abhorrence I feel of this act, because such an expression of opinion goes to involve others in guilt, in cases where no such right of crimination constitutionally belongs to Congress.

The course we are now pursuing is the true course, that which is founded in justice and in sound policy. \*It is to cover the transaction without approving it; to pass the whole of its scenes over in silence. Whereas we cannot consider the resolutions without going to the marrow of this foul wound, which every dictate of policy and wisdom prompts us to conceal. I consider this course as going forever to close this offensive wound; to bury it in eternal oblivion. With this view I made the motion. It is immaterial to me whether the Committee be refused leave to sit again, or be discharged from a consideration of the resolutions. So long as the resolutions live, I will with zeal oppose their consideration, without saying that I will bring the House to a vote. A gentleman may propose what he pleases, but it is for the House to dispose of it. I will oppose their consideration, because I see in them nothing of public utility; because they are a source of personal irritation; and because wisdom dictates that the whole transaction to which they relate should be thrown into oblivion.

Mr. DAWSON concisely advocated the consideration of the resolutions; he thought it but fair that an opportunity should be given to their friends to support them.

Mr. SMILIE said he had avoided, through the whole of the discussion, considering the merits of the resolutions. He would state, at this time, one reason why he was unwilling to vote upon them. Congress should be extremely careful, when they were establishing their own rights, not to violate the rights of others. These resolutions declare the act of Georgia under which the claims in question are preferred, a nullity. I ask, what will be the effect of this declaration on the claims when they are brought before a court of justice? Can they have the same chance of justice after this solemn decision of the House of Representatives of the Union? It is acknowledged to be wrong to bias a jury; and it is well known that printers are punished for publications during a pending suit. Can anything they may publish have such an effect as the decision of the National Legislature? This is the reason, said Mr. S., why I am reluctant to express any opinion on these resolutions.

Mr. JOHN RANDOLPH inquired whether, if leave were refused to the Committee of the Whole to sit again, the resolutions would not therefore be considered as before the House?

The SPEAKER said they would.

On granting leave, the yeas and nays were taken, and were—yeas 3, nays 101, as follows:

YEAS—Isaac Anderson, Frederick Conrad, and Be-  
riah Palmer.

NAYS—Willis Alston, jr., John Archer, S. Baldwin, David Bard, George M. Bedinger, Silas Betton, P. Bishop, William Blackledge, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey,

William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Seth Hastings, William Hoge, David Hough, Benjamin Huger, John G. Jackson, Walter Jones, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, John B. C. Lucas, Matthew Lyon, Andrew McCord, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, junior, Joseph H. Nicholson, Gideon Olin, Thos. Plater, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, Tompson J. Skinner, James Sloan, John Smilie, John Cotton Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

[This question, from the unexpected turn which the debate took, and its irrelevancy to the main points under discussion, viz: the expediency of considering Mr. RANDOLPH's resolutions, and the justice or policy of compromising claims under the act of Georgia, of 1795, decided nothing: particularly as it was previously declared by the Chair that, in case leave was refused to the Committee to sit again, the resolutions would thereupon be in possession of the House.]

Mr. J. RANDOLPH immediately moved that the House should take up the resolutions for consideration, and called for the yeas and nays on the motion.

A member inquired, whether it was not first in order to consider the report of the Committee agreeing to the bill?

The SPEAKER said, Mr. RANDOLPH's motion, being first made, must be first considered.

An unsuccessful motion having been made to adjourn, the question was taken by yeas and nays, on considering the resolutions, and carried affirmatively—yeas 57, nays 46, as follows:

YEAS—Willis Alston, junior, John Archer, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, John Dawson, John B. Earle, William Findley, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, William Hoge, James Holland, Walter Jones, Michael Leib, Joseph Lewis, junior, John B. C. Lucas, Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Thomas Newton, junior, Joseph H. Nicholson, Gideon Olin, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sam-

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mons, Thomas Sandford, James Sloan, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Marmaduke Williams, Richard Winn, and Joseph Winston.

*NAYS*—Simeon Baldwin, Silas Betton, Phanuel Bishop, John Boyle, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, David Hough, Benjamin Huger, John G. Jackson, Nehemiah Knight, Henry W. Livingston, Matthew Lyon, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Thomas Plater, Tompson J. Skinner, John Smilie, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, and Lemuel Williams.

An adjournment was then called for, and the House adjourned.

#### THURSDAY, March 8.

Mr. NICHOLSON, a member of this House for the State of Maryland, informed the House of the death of his colleague, General DANIEL HEISTER, late one of the members of the said State, in this House: Whereupon,

*Resolved, unanimously,* That the members of this House will attend at Lovell's hotel, this day, at one o'clock, for the purpose of following in procession the body of the late General DANIEL HEISTER, a part of the way to the place of interment at Hagerstown.

*Resolved, unanimously,* That the members of this House will testify their respect for the memory of the said DANIEL HEISTER by wearing a crape on the left arm for one month.

On motion,

*Resolved,* That the SPEAKER address a letter to the Executive of the State of Maryland, to inform them of the death of DANIEL HEISTER, late a member of this House, in order that measures may be taken to supply the vacancy occasioned thereby.

Mr. VARNUM, from the committee appointed the sixth instant, presented a bill in addition to "An act fixing the Military Peace Establishment of the United States;" which was read twice and committed to a Committee of the Whole tomorrow.

A Message was received from the President of the United States, enclosing a letter from Governor Claiborne, respecting the importation at New Orleans of slaves from Africa, and his impression that he did not possess power to interpose respecting the same.

The Message, together with the extracts of letters transmitted therewith, were read, and ordered to lie on the table.

Mr. VARNUM, from the committee appointed on the thirteenth of January last, presented a bill for establishing rules and articles for the government of the armies of the United States; which was read twice and committed to a Committee of the Whole on Saturday next.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, presented a bill to repeal a part of the act concerning Consuls and Vice Consuls, and for the further protection of American seamen;" which was read twice and committed to a Committee of the whole House on Monday next.

Petitions of sundry inhabitants of Georgetown, in the District of Columbia, were presented to the House and read, respectively stating their approbation of the principles contained in a bill now depending before the House to amend the charter of Georgetown; also, praying that the petitioners and other inhabitants of Georgetown, may be exonerated from taxation for the County of Washington, in the said District; and further, that the Corporation of the said town may be authorized to appoint the inspectors of tobacco, with the use and application of the surplus money arising therefrom, to build a poor house; and to impose a tax, and collect the same for the support of the poor.

*Ordered,* That the said petitions be severally referred to a Committee of the whole House to whom was committed, on the twenty seventh ultimo, the bill to amend the charter of Georgetown.

Mr. JOHN RANDOLPH, from the committee appointed to inquire into the official conduct of Samuel Chase and Richard Peters, presented to the House a deposition thereon, of David Robertson, of the State of Virginia; which was read, and ordered to be referred to a Committee of the whole House to whom was committed, on the sixth instant, the report of the aforesaid Committee of Inquiry.

An engrossed bill supplemental to the act, entitled "An act concerning the City of Washington," was read the third time and passed.

#### EXPLORATION OF LOUISIANA.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, who were instructed by a resolution of this House, of the eighteenth ultimo, "to inquire into the expediency of authorizing the President of the United States to employ persons to explore such parts of the province of Louisiana as he may deem proper," made a report thereon; which was read, and is as follows:

By a series of memorable events the United States have lately acquired a large addition of soil and jurisdiction. This is believed, besides the tracts on the east side of the Mississippi, to include all the country which lies to the westward between that river and the great chain of mountains that stretch from north to south, and divide the waters running into the Atlantic from those which empty into the Pacific Ocean; and beyond that chain between the territories claimed by Great Britain on the one side, and by Spain on the other, quite to the South Sea.

It is highly desirable that this extensive region should be visited, in some parts, at least, by intelligent men. Important additions might thereby be made to the science of geography. Various materials might thence be derived to augment our knowledge of natural history. The Government would thence acquire correct information of the situation, extent, and worth of its own dominions, and individuals of research and curi-

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osity would receive ample gratification as to the works of art and productions of nature which exist in those boundless tracts.

There is no need of informing the House that already an expedition, authorized by Congress at the second session of the seventh Congress, has been actually undertaken, and is going on, under the President's direction, up the Missouri. The two enterprising conductors of this adventure, Captains Lewis and Clark, have been directed to attempt a passage to the western shore of the South Sea; from them, on their return in 1805, a narrative full of instruction may be expected. It is also understood that a survey has been ordered to be made of the Mississippi, from the mouth of the Ohio to the falls of Saint Anthony. Of this a correct map may be expected within a reasonable time. The like also is hoped, in the course of a moderate period, from the latter place to the source of the Mississippi, and thence to the Lake of the Woods.

Men of political research have, in like manner, long known that the course of the Mississippi downwards to the Gulf of Mexico, has been well delineated by Captain Hutchings; and that more recently, by the assiduous observations of Mr. Ellicot, the turnings and windings of that river, southward of its junction with the Ohio, and the territorial line on the 31st degree of north latitude, to the northwestern angle of Florida, have been exhibited in a perspicuous and scientific manner. Along the coast of the ocean too, from Perdido Bay to the Bay of Saint Bernard, navigators have viewed the shores and coast so often that there is little left to explore.

But, although there is so much really known, or in a train of investigation, concerning Louisiana, there are still some parts upon which it would be desirable to possess additional information. The tracts alluded to are those which remain principally in their original obscurity, and strongly attract the eye of the adventurer. Their pathless forests may be advantageously penetrated along the channels of the Arkansas and the Red Rivers, two of those large and long water-courses which intersect them. An expedition of discovery up these prodigious streams and their branches might redound as much to the honor, and more to the interest of our Government, than the voyages by sea round the terra-queous globe have done for the polished nations of Europe who authorized them. Such liberal enterprises will befit the present season of prosperity, and may be expected to succeed best during the reign of peace.

The Red River was visited many years ago, and even settled as high as Natchitoches. This old establishment is laid down in some of the maps, as being only seven leagues distant from the station of Adais, the capital of the province of Texas, and situated on the river Mexicano. Red River is described as difficult to ascend when the waters are low; but when high a traveller may, by means of them, penetrate where he pleases. More than half a century ago, it was said that along its banks were many inferior lakes and drowned lands, that abounded with alligators and fishes; that its shores were inhabited by plenty of bisons, tigers, wolves, deer, and several other species of untamed beasts; as well as by turkeys, geese, swans, ducks, and other kind of wild fowl; and that all manner of indigenous fruit trees and grape vines sprout up luxuriantly from the soil. To these accounts, which are common to most other parts of the American wilderness when first visited by civilised men, other facts and considerations are now to be added. The nation has been lately told, on respectable

authority, that the Red River is navigable by boats one thousand miles beyond Natchitoches. It is reported to run through a country abounding in rich prairies, where neat cattle and horses range in innumerable herds, as independent as the natural inhabitants. There is reason to presume the head of this stream lies concealed in the southwestern corner of the newly ceded territory. The limits of Louisiana in that quarter are obscure and undefined. And it is worthy of Legislative consideration, whether the latitude and longitude of the Red River source ought not to be ascertained under the authority of the nation. It may be expected that individuals will venture upon such undertakings for the gratification of their own speculative curiosity, and by discreet management the journeys of such persons will minister to the national wants, and to general instruction, with but a trifling appropriation from the Treasury.

The Arkansas, which has been already traced above one thousand miles, also seems worthy of being explored with more care and to a greater extent than has hitherto been done. A spacious plain and valley incrustated annually (like the soil in some spots about the Persian Gulf) with native salt, in quantity sufficient to impregnate a branch of the Arkansas, and occasionally the river into which it falls, with its briny quality, and to make it a salt river down to the settlement of Ouizarque, for considerably more than six hundred miles of its course, might be mentioned as no ordinary occurrences. The masses of virgin silver and gold that glitter in the veins of the rocks which underlay the Arkansas itself, and mingle with the minerals near certain other of its streams, and offer themselves to the hand of him who will gather, refine, and convert them to use, are no less uncommon and wonderful. These extraordinary productions might be dwelt upon at considerable length, in this report; but, credible as both the relations are, the committee forbear to offer anything more than that the existence of a salt river, precious mines and ores, and of some other remarkable objects, are stated upon solid and credible testimony. Omitting these things, as not necessary to be urged to Congress, the committee consider that the latitude, longitude, and relative situation of the source of the Arkansas, are themselves of sufficient moment to render their attainment very desirable.

Without writing a sentence on the advantages of tracing the streams of the Black river, the White river, the Mexicano, and of other rivers, to their sources, the committee submit the following opinion:

That it will be honorable and useful to make some public provision for further exploring the extent, and ascertaining the boundaries of Louisiana: and,

That a sum not exceeding — dollars be appropriated for enabling the President of the United States to cause surveys and observations to be made on the Red river and the Arkansas, or either of them, or elsewhere in Louisiana, as he shall think proper, for these purposes.

The report was referred to a Committee of the Whole on Wednesday next.

FRIDAY, March 9.

The House resolved itself into a Committee of the Whole on the report of the Committee of Claims, of the twenty-seventh ultimo, to whom was referred the petition of Moses White and Charlotte Hazen, executor and executrix of Moses Hazen, deceased; and, after some time spent there-

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in, the Committee rose and reported to the House their agreement to the same.

The House then proceeded to consider the said report of the Committee of Claims at the Clerk's table; and so much as is contained in the last clause thereof, being twice read, in the words following, to wit:

"From an attentive consideration of the case, your committee are of opinion the prayer of the petition is reasonable, and ought to be granted."

The question was taken that the House do concur with the Committee of the Whole in their agreement to the said last clause of the report, and resolved in the affirmative.

*Ordered*, That a bill, or bills, be brought in pursuant thereto; and that the Committee of Claims do prepare and bring in the same.

The House resolved itself into a Committee of the Whole on the report of the Committee of Commerce and Manufactures, of the twenty-seventh of January, on the petition of Lachlin McIntosh and Joseph Habersham, of the State of Georgia; to which Committee of the whole House was also referred a report of the Committee of Commerce and Manufactures on the petition of the executors of John Habersham, deceased, made the twenty-seventh of February last; and, after some time spent therein, the Committee rose and reported two resolutions thereupon; which were severally read, and agreed to by the House, as follows:

*Resolved*, That the Secretary of the Treasury be authorized to direct credit to be given to the late Collector of Savannah, to the amount of eleven hundred and eleven dollars and eighteen cents.

*Resolved*, That the proper officers of the Treasury be authorized to pass to the credit of John Habersham, late Collector of Savannah, in Georgia, the amount of two orders or bills drawn in his favor by Edward Price, and one of them endorsed by William Wallace; the former upon Oliver Wolcott, Secretary of the Treasury, and the other upon James McHenry, Secretary of War, making together the sum of two thousand one hundred and twenty-four dollars and fifty-three cents.

*Ordered*, That a bill, or bills, be brought in, pursuant to the said resolutions; and that the Committee of Commerce and Manufactures do prepare and bring in the same.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, presented a bill making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering; which was read twice and committed to a Committee of the whole House immediately.

The House accordingly resolved itself into the said Committee; and, after some time spent therein, the bill was reported with several amendments thereto, which were severally twice read, and agreed to by the House.

*Ordered*, That the said bill be engrossed, and read the third time to-morrow.

Mr. SMILIE offered a resolution directing a call of the House every morning at ten o'clock, during the remainder of the session, connected with a

forfeiture of one day's pay for each neglect of duty. Ordered to lie on the table.

Mr. RHEA, of Tennessee, moved the following resolution, which was referred to a Committee of the Whole on the bill for the government of Louisiana.

"*Resolved*, That it is expedient to make provision, by law, to declare void and of no effect, all grants for land in the Territory of Louisiana, ceded to the United States by the French Republic, by the treaty of the thirtieth of April, in the year eighteen hundred and three, which have been issued by any authority, or pretended authority from the Government of Spain, subsequent to the Treaty of St. Ildefonso."

Mr. FINDLEY, from the Committee of Elections, to whom were referred, during the present session, a memorial of Samuel J. Cabell of the State of Virginia, complaining of an undue election of THOMAS MANN RANDOLPH, one of the members returned to serve in this House for the said State; and, also, sundry depositions and other papers transmitted from the counties of Amherst, Albemarle, and Fluvanna, in the State of Virginia, in the case of the said contested election; made a report thereon, which was read, and ordered to lie on the table. The report is as follows:

"That having examined the depositions and papers referred to them, they discover that the land lists of all the counties of which the district is composed are wanting, and the list of voters of all the counties but one, (viz: Fluvanna county) are also wanting. The Committee also inform the House, that, by letters from the memorialist of the thirteenth of October, and third of November, the Committee were requested not to proceed until he could procure and transmit further documents. That by another letter from the memorialist of the fifth of January, accompanied with a protest against documents then before the Committee, he again made a request that the Committee would defer taking the subject under consideration. Afterwards the memorialist was notified, by the direction of the Committee, to be prepared, and to attend the Committee himself, or by his agent, in order to obtain a decision. He has not complied with the notification, and the Committee observe no facts, from examining the documents submitted to them, sufficient to invalidate the claim, or set aside the return of Thomas M. Randolph.

"Therefore, the Committee are of opinion that Thos. M. Randolph, returned as a member for the Congressional District composed of the counties of Albemarle, Amherst, and Fluvanna, in the State of Virginia, is entitled to his seat in the House."

No further proceedings took place upon this report.

#### GOVERNMENT OF LOUISIANA.

The House went into a Committee of the Whole on the bill for the government of Louisiana. The fifth section being read, as follows:

"SEC. 5. The judicial power shall be vested in a superior court, and in such inferior courts, and justices of the peace, as the Legislature of the Territory may, from time to time, establish. The judges of the superior court, and the justices of the peace, shall hold their offices for the term of four years. The superior court shall consist of three judges, any one of whom shall constitute a court. They shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those

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which are capital, and original and appellate jurisdiction in all civil cases of the value of one hundred dollars. Its sessions shall commence on the first Monday of every month, and continue till all the business depending before them shall be disposed of. They shall appoint their own clerk. In all criminal prosecutions which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage; and in all cases, criminal and civil, in the superior court, the trial shall be by a jury, if either of the parties require it. The inhabitants of the said Territory shall be entitled to the benefits of the writ of *habeas corpus*; they shall be bailable, unless for capital offences, where the proof shall be evident, or the presumption great; and no cruel and unusual punishments shall be inflicted."

Mr. G. W. CAMPBELL moved to strike out "which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage; and in all cases, criminal and civil, in the superior court, the trial shall be by a jury, if either of the party require it," and to insert "the trial shall be by jury, and in all civil cases above the value of twenty dollars."

Mr. C. said he conceived that in legislating for the people of Louisiana, they were bound by the Constitution of the United States, and that they had not a right to establish courts in that Territory on any other terms than they could in any of the States. Wherever courts were established in a Territory, they must be considered as courts of the United States, and of consequence cannot be otherwise constituted than as courts in the States. The Constitution expressly declares that, in criminal cases the trial shall be by jury, and in all civil cases where the sum in controversy exceeds the value of twenty dollars, the trial shall be likewise by jury. In the ninth article of the amendments to the Constitution, we find the following words: "In suits at common law where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. The eighth article says: "In all criminal prosecutions the accused shall enjoy the right to a speedy and public trial by an impartial jury."

I will observe that the right of trial given by this section, to wit: "if either of the parties require it," is a dangerous mode of proceeding, and may tend unwarily to entrap them. The person brought before the court for a misdemeanor, asked if he requires a jury trial, may be ignorant of the evidence, and may not know the benefits of a trial by jury; he must at all events show a want of confidence in the court, or waive a jury trial. If he does the first, he may sour the minds of the court. The party is thus put in a situation which may be worse than if he was deprived altogether of the right of a trial, by the necessity of making a choice which may operate more against him. The bill therefore does not secure the right of a jury trial, as contemplated by the Constitution.

Mr. SLOAN said a few words in support of the motion, which was lost—yeas 20.

[At this stage of the business we attended the trial of impeachment in the Senate, and cannot with perfect correctness state the further proceed-

ings of the House on the bill. We understand, however, that the new section, sometime since offered by Mr. G. W. CAMPBELL, providing for the election of a Legislature by the people of Louisiana, instead of their being governed according to the bill from the Senate, by a council appointed by the President, was disagreed to—yeas 37, nays 43.—*Reporter.*]

SATURDAY, March 10.

Mr. JOHN C. SMITH, from the Committee of Claims, presented, according to order, a bill for the relief of the legal representatives of the late General Moses Hazen, deceased; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. THOMAS M. RANDOLPH, from the committee to whom was referred, on the twenty-sixth of January, the petition of William Dunbar, of the Mississippi Territory of the United States, and to whom was recommended, on the third of February last, the petition of the Mayor, Aldermen, and Assistants, of the city of Natchez, in the said Mississippi Territory, together with a report of a committee thereon, made a supplementary report; which was read and considered: Whereupon,

*Resolved*, That the execution of so much of the twelfth section of the act passed the third of March, 1803, entitled "An act regulating the grants of land, and providing for the disposal of lands of the United States south of the State of Tennessee," as directs the Governor of the Mississippi Territory to locate lots in the city of Natchez, and a piece of land adjoining thereto, (if the property of the United States,) for the use of the Jefferson College, be suspended until farther order be taken thereon by Congress.

*Ordered*, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr. THOMAS, M. RANDOLPH, Mr. ALSTON, and Mr. LATIMORE, do prepare and bring in the same.

An engrossed bill making appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering, was read the third time, and passed.

A message from the Senate informed the House that the Senate, in their capacity of a Court of Impeachments, will, on Monday next, at twelve o'clock, proceed to pronounce judgment on the articles of impeachment exhibited against John Pickering.

The House proceeded to consider the report of the Committee of Claims, of the twenty-ninth ultimo, on the petition of William Eaton; and so much of the said report as is contained in the last clause thereof, being twice read at the Clerk's table, in the words following, to wit:

"Your committee are therefore of opinion, that the petitioner have leave to withdraw his petition, and the papers accompanying the same;"

The question was taken that the House do concur with the Committee of Claims in their agreement to the said last clause of the report, and resolved in the affirmative.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act making appropriations for the support of Government, for the year 1804:" Whereupon,

*Resolved*, That this House doth agree to the said amendment.

MR. JOHN RANDOLPH, from the Committee of Ways and Means, to whom was referred, on the second instant, two reports of the Committee of Commerce and Manufactures; one "on laying a tonnage duty on foreign ships and vessels, to be denominated light money;" the other on various memorials and petitions for the encouragement of domestic acts, trades, and manufactures;" presented a bill imposing more specific duties on the importation of certain articles; and also, for levying and collecting light money on foreign ships and vessels; which was read twice, and committed to a Committee of the Whole on Monday next.

A message from the Senate informed the House, that the Senate agree to the first, second, and fourth amendments proposed by this House to the bill, sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar," with an amendment to the said fourth amendment; to which they desire the concurrence of the House. The Senate disagree to the third amendment by this House to add a new section at the end of the said bill.

#### GEORGIA CLAIMS.

MR. J. RANDOLPH moved the taking up for consideration the resolution offered by him on the claims under the act of Georgia of 1795.

MR. ELLIOT moved the order of the day on the bill for the compromise of those and other claims.

MR. GREGG moved to postpone the further consideration of the resolutions till the first day of December next. He was, he said, perfectly prepared to act on the bill for the settlement of the claims, and to give it his decided negative; and should have no objections, but for the lateness of the session, and the great mass of important business that demanded attention.

The SPEAKER said, the motion to consider the resolutions, being first made, must be first put.

It accordingly was put, and carried—yeas 58.

MR. JACKSON then moved a postponement of the resolutions until the 1st Monday in December.

MR. STANFORD inquired whether the motion of postponement was not susceptible of a division, so as to apply to each resolution separately.

MR. J. RANDOLPH hoped the question would be so taken.

MR. RODNEY expressed the same wish, and that the yeas and nays might be taken on each division of the question. He was opposed to a postponement. He should not have risen at this late period but for the warm opposition the resolutions had received from various quarters, and but for his desire to avail himself of the opportunity to state his reasons for giving them a firm support. [MR. R. was interrupted by an inquiry whether his remarks were in order before the Chair had de-

cided on the divisibility of the motion to postpone. MR. JOHN RANDOLPH remarked that whenever a question was susceptible of division, it might be divided as a matter of right.]

MR. VARNUM asked if a motion were made to postpone certain resolutions, or a bill, whether it would be divided so as to apply to a part only of the bill or the resolutions?

MR. JACKSON said the motion is to postpone the resolutions generally. A major proposition must include the minor, and cannot be susceptible of division. If a member were to move a postponement of one of the resolutions, a motion to postpone the whole would supersede it.

Messrs. ELLIOT and EUSTIS were of opinion that the motion did not admit of division.

The SPEAKER said it had been the practice of the House to commit a particular section. He considered the motion divisible.

The question having been stated on the postponement of the first resolution to the first Monday of December—

MR. RODNEY rose.—I was about, said he, when interrupted by an inquiry relating to a point of order, taking advantage of the opportunity afforded to give my reasons in support of the resolutions under consideration. I had observed that they experienced such a variety of objections, and from such a variety of quarters, that notwithstanding it was my intention to have given them a silent vote, and to have relied on the able manner in which they had been supported by my worthy friend from Virginia, I felt it my duty to remain no longer silent. My friend from Massachusetts has endeavored to interest the feelings of the House by awakening their compassion to the claims of those who have innocently suffered. I will only remark, in reply to such addresses to our feelings, that justice has the first right to be heard. Be just before you are generous, is a maxim consecrated by time and humanity; though an acknowledged virtue is of an inferior order, it may be the second virtue which a Legislative body ought to possess, but justice is the first. In the course of this discussion when reason failed, resort has been had to other means, and a too liberal disposition to use personal recrimination has been indulged. I am pleased, however, to hear the gentleman from Massachusetts declare here that the warmth displayed on this occasion ought not to affect the personal feelings of individual members, and I am happy that this sentiment pervades every part of the House. I shall therefore pass by the sallies of the imagination which we have heard, as we do the flights of our pigeons who leave their owners *animo revertendi*, and return to the subject. I shall pass by the fable of the lion, without reversing it; nor shall I allude to another fable relating to that noble animal, and to a reptile who, having found under him a shelter from danger, attempted to sting him.

It is objected to these resolutions that they are abstract propositions. By abstract principles, I understand axioms unapplied. But when they are applied to facts, they cease to be considered in the abstract. In geometry there are certain

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elementary principles which are the basis of all reasoning on any proposition in that department of science. So in law there are principles in the abstract while they remain unapplied, and which bear in every case where facts admit of their application. So in politics certain principles are held sacred, either in the view of right, or in relation to the constitution of a State. But when these principles are applied to a given state of things, they cease to be abstract. In the Declaration of Independence there are several abstract principles, such as "that all men are free," &c. But when applied to a certain state of things, they are no longer abstract. I apprehend, therefore, that my worthy friend from Pennsylvania will, on more mature reflection, perceive that the principles contained in the resolutions bearing on facts cease to be abstract; on facts which it is necessary for us to decide, and against examining the consequences of which no reason can be urged. But says another gentleman, we have no jurisdiction in the case; we have nothing to do with the act of Georgia of 1795; we have no authority over it. I confess myself really surprised to be assured, over and over again, that the act of 1795, which gives the House all this trouble, is the corner stone of the present claims, and without which there would not be a shadow of claim, is not to be considered as blended with our proceedings. What! when we are called upon to compromise claims, are we not to go to the cause, to the fountain source, and decide whether they have, or have not, a foundation in justice? Put the act of 1795 out of the way, and would we have ever heard of this compromise? Remove it, and would we have a single claimant before us soliciting a compromise? I consider the act, to Georgia, as involving the all-important point; as intimately and indissolubly blended with the question before us. That question is whether we will consent to give five millions to effect a compromise of claims, directly emanating from the act of 1795; and then, as an incidental question, we are obliged to look at the act of 1795. If the House have authority over the main question, *ex vi termini*, they have authority over every question incidental to it; and common sense teaches us that it is absolutely necessary to determine on the validity of the act of 1795, in order to decide the justice or policy of compromising claims arising out of it.

But says the gentleman from Massachusetts, the United States are pledged to compensate these claimants by the articles of agreement made with Georgia, and by the act of Congress passed at a late session: and he wishes us to drop the curtain over this scene of iniquity. I should be as glad as that gentleman to do it, but I wish to know who raised it, and whether the first act in this dark drama is not the act of 1795, and whether this did not, in the first instance, raise the curtain? I wish to examine the validity of this act. Is there anything in the articles of cession that contravenes its validity? My worthy friend from Virginia has frequently called the attention of the House to that instrument. I will again invite it. By the third article it is—

"*Provided*, That all the lands ceded by this agreement to the United States, shall, after satisfying the above-mentioned payment of one million two hundred and fifty thousand dollars to the State of Georgia, and the grants recognised by the preceding condition, be considered as a common fund for the use and benefit of the United States, Georgia included, and shall be faithfully disposed of for that purpose, and for no other use or purpose whatever: *Provided, however*, That the United States, for the period and until the end of one year after the assent of Georgia to the boundary established by this agreement shall have been declared, may, in such manner as not to interfere with the above-mentioned payment to the State of Georgia, nor with the grants hereinbefore recognised, dispose of or appropriate a portion of the said lands, not exceeding five millions of acres, or the proceeds of the said five millions of acres, or of any part thereof, for the purpose of satisfying, quieting, or compensating for any claims other than those hereinbefore recognised, which may be made to the said lands, or to any part thereof. It being fully understood, that if an act of Congress making such disposition or appropriation shall not be passed into a law within the above-mentioned period of one year, the United States shall not be at liberty thereafter to cede any part of the said lands on account of claims which may be laid to the same, other than those recognised by the preceding condition, nor to compensation for the same; and in case of any such cession or compensation, the present cession of Georgia to the right of soil over the lands thus ceded or compensated for, shall be considered as null and void, and the lands thus ceded or compensated for shall revert to the State of Georgia."

It must be evident from the plain reading of this article, that Georgia did not contemplate on her part to pay, nor wish the United States to pay the claimants. She ties the United States down to a certain time, and if afterwards she undertakes to appropriate one acre to their satisfaction, the whole reverts to Georgia. Is there any specific recognition of claims in the instrument? Is there any covenant to pay the claimants under the act of 1795? We find nothing in the letter of the articles of cession to warrant it; and we must conclude that there is no promise made by the United States to compensate the claimants under that act. But say gentlemen, this is to be found in the act of the last session. I think that act establishes no such thing, and that those claims are not recognised, or intended to be recognised by it; for it explicitly declares in the eighth section:

"That so much of the five millions of acres reserved for that purpose by the articles of agreement above-mentioned, as may be necessary to satisfy the claims not confirmed by that agreement, which are embraced by the two first sections of this act, or which may be derived from British grants for lands which have not been regranted by the Spanish Government, be, and the same is hereby appropriated for that purpose, and so much of the residue of the said five millions of acres, or of the net proceeds thereof as may be necessary for that purpose, shall be and is hereby appropriated for the purpose of satisfying, quieting, and compensating, for such other claims to the lands of the United States south of the State of Tennessee not recognised in the above-mentioned articles of agreement, and which are



derived from any act or pretended act of the State of Georgia, which Congress may hereafter think fit to provide for: *Provided, however*, That no other claims shall be embraced by this appropriation, but those, the evidence of which shall have, on or before the first day of January next, been exhibited by the claimants to the Secretary of State, and recorded in books to be kept in his office for that purpose, at the expense of the party exhibiting the same, who shall pay to the person employed by the Secretary of State for recording the same, at the rate of twelve and a half cents for every hundred words contained in each document thus recorded; nor shall any grant, deed, conveyance, or other written evidence of any claim to the said lands, derived or pretended to be derived, from the State of Georgia, and not recognised by the above-mentioned articles of agreement, ever after be admitted or considered as evidence in any of the courts of the United States, unless it shall have been exhibited and recorded in the manner and within the time above-mentioned."

From this view I think it must be obvious to every person who has considered the articles of cession and the act of Congress, that neither in the one nor the other are these claims recognised as valid. They are both very far from containing any covenant to compensate or compromise them. I know that truth is only to be sought by a slow and painful process, while error is very compendious and easy. We can with great ease hop and skip over truth and perch upon assertion, and call it truth. But where shall we find in the articles of cession or the act of Congress any obligation to render compensation for these claims? We can find nothing. No such idea is inculcated. While we may find abundant proof to satisfy us that this assumption is without foundation, and cannot be supported.

Having settled, as I conceive, these preliminary points, I will call the attention of the House to the great point on which their decision must turn. Either the act of 1795 or of 1796 is in force. If that of 1795 is in force the claimants have a legal title to unascertained millions. If that act is not binding, they have no claim at all. If that act is of no authority, there is an end of their title. The tree is cut up by the roots, and all its branches fall. They have either then a title to fifty millions, or they have no title at all. Their case cannot be compared to a common saying, which declares half a loaf better than no bread.

Now let us compare these facts and reasonings with the resolutions. When I rose I intended to have taken them up in order, but as I have been diverted by the course of the argument, I shall pursue the track I have taken. One of the resolutions states "that a subsequent Legislature of 'an individual State has an undoubted right to repeal any act of a preceding Legislature, provided such repeal be not forbidden by the constitution of such State, or of the United States.'"

This is, I think, a plain and clear axiom. Both Legislatures flow from the same source, and are armed with equal powers. What one Legislature can do, another may undo, if the interest of the public prescribes it. I know an ingenious distinction is taken, as to the power of a Legislative

body, between municipal acts and those constituting contracts. The distinction holds to a certain degree as to expediency, but not as to power. When a Legislative body forms a contract, it is a solemn thing, and it ought not to be touched, except when the private evil arising from its being annulled should rather be endured than the public calamity arising from its continuance. But still the position of the resolution is perfectly tenable. What one Legislature has done another may undo; what one has enacted, a subsequent one may repeal.

Let us examine whether there is anything in the rescinding act of Georgia at variance with the constitution of that State, or the Constitution of the United States. The whole course of the business shows the previous act to have been a violation of the constitution of Georgia. The Constitution of the United States declares that no State "shall pass any *ex post facto* law, or law impairing the obligation of contracts." That no contract has been impaired, is evident from attending to the sense of the word. I know of no contract formed, either in a legal or equitable sense. Did the constitution of Georgia authorize her Representatives to rob the people of their property? Or did it authorize them only to dispose of it for their welfare? If they had a right to dispose of it in a wrongful manner, it knocks up the argument at once. If they were vested with a right to rob and plunder their constituents, I give up the point. But until this is shown I shall remain of opinion that they only had the right of disposing of it for the general good. I am not about to travel through the fruitful wilderness of inquiry disclosed in the progress of this affair. But gentlemen say that we have no evidence of corruption. What do they want more than we possess? The whole business has been referred to a set of Commissioners, whose comprehensive powers embraced an investigation of every claim. They have fully examined the claims under the act of 1795, and they have reported that—

"A comparison of the schedule annexed to the articles, and which is declared to be a part of the agreement, with the yeas and nays on the passage of the act authorizing the sale, (E,) shows that all the members, both in the Senate and House, who voted in favor of the law, were, with one single exception, (Robert Watkins, whose name does not appear) interested in, and parties to, the purchase.

"The articles of agreement, and list of associates of the Tennessee company, which have been voluntarily furnished by one of the trustees, shows that a number of members of the Legislature were also interested in that company."

This stubborn fact appears on the face of a report made by persons duly authorized to investigate the whole transaction. The fact is indisputable, and ought to satisfy the most reluctant and unwilling mind of the enormity of the corruption attending this business. It is fully satisfactory to my mind. But it is said that this statement is founded on *ex parte* depositions, and that no opportunity has been allowed to cross-examine the witnesses. But where were they taken? In Geor-

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gia; in probably the same House that witnessed the scene of disgrace; by a tribunal competent to take them and to inquire into facts. But say gentlemen, admitting the facts to be true, the subsequent rescinding act of Georgia was unjustifiable and is invalid; and, notwithstanding a majority of those who framed it were corrupted, it is a binding law. I do not know, as I have before stated, any case strictly analogous to this. But I consider it as an universal principle that fraud vitiates every contract, and that consequently if this contract was entered into fraudulently, it was null from the moment of its formation. If a Legislature should authorize a man to make a fraudulent conveyance, and he should make it, will gentlemen say that it would be valid. They will not. But say gentlemen there are parties who are innocent. I lament as much as any one that persons of this description are likely to suffer. But a grant void at the period of its formation cannot be valid at any subsequent stage. Void in its creation, no validity can accrue to acts under it. But gentlemen ask if we have ever heard of a case in which two parties are equally guilty of one taking advantage of the other? The general principle of the law is that where both parties are equally guilty of a fraud, the one in possession is in the best condition. A usurer cannot plead his usurious bond and get possession of the property pledged for its payment. So if a contract be made to dispose of land for a corrupt purpose, the party in possession may show the fraud and keep the land and money. Why is this principle established? In order to prevent the parties from practising fraud, which is most effectually done by declaring that neither of the parties practising a fraud shall receive a helping hand from the law.

The opinion that the rescinding act is not obligatory is as novel as unfounded. Has it not been declared obligatory by the Legislature and Convention of Georgia? Have not the Commissioners likewise declared it valid in saying "that under all the circumstances which may affect the case, as they have come within their knowledge, the title of the claimants (under the act of 1796) cannot be supported." Has not Congress authorized the Commissioners to purchase the territory? In what situation then is the House placed provided the act of 1795 is valid? Are they not a set of land-jobbers? Have they not purchased land from Georgia which she had no right to sell? Are they not at this moment, in proposing to give a part only of the lands conveyed by the act of 1795, declaring that act void as much so as if they gave none? I cannot conceive in what point of view the subject can be placed without coming to the conclusion that the act of 1795 is void; and the proceedings of the House show their perfect unanimity on this point; otherwise some gentlemen would be in favor of giving the whole fifty millions.

But we are told it is politic to satisfy the claimants because they may be troublesome; they may bring ejectments and prevent the disposal of the public lands. Let us see if there is no remedy

against this evil, and whether it is not pointed out by the act of the last session. Provision is there-in made for registering and recording claims on the United States under the acts of Georgia. This provision goes to a great extent; it declares that unless the claimants observe certain forms they shall be debarred from giving evidence of their validity in any of the courts of the United States. If then Congress have power to declare the claims subject to certain forms, can they not say that no claim, title-papers, or deeds, under the act of 1795, shall be adduced in the courts of the United States, as well as to say that they shall only be adduced under certain prescribed forms?

Upon the whole, it appears to me most evident, on referring to the acts of Georgia, the articles of cession, and the laws of Congress, that the claims under the acts of Georgia have no validity. If, therefore, we give anything, it must be from compassion, and not from the obligations of justice. Let the House, ere it do this, reflect whether there are not objects in the country equally worthy of their compassion. Let them visit the straw shed of the war worn soldier who bled in the defence of our rights; the comfortless hut of the widow who lost her husband in battle. With but little search we shall find a mountain of claims that overhangs the justice of the country. If, after this view, we shall consider any unfortunate victims of injustice in this transaction entitled to compassion, I will agree to go as far as any man in affording them relief. But were we as rich as Cræsus, I would first administer relief to the Belisariuses of our country. Let us be just to these before we are generous to other descriptions of claimants.

In discussing the subject in this manner, said Mr. R., I have attested my entire correspondence with the sentiments of my friend from Virginia, (Mr. RANDOLPH,) who has so ably advocated these resolutions. I believe that he has irrefragably substantiated the principles and facts they contain. I believe he has placed them on a solid basis, and has erected a pyramid of argument in their support which nothing can shake, and which terminates in a point that must lead to the rejection of the bill. I express this opinion with due deference to the ideas of gentlemen on the other side of the question; only observing, in language used on another occasion, that those who are disposed to censure me for my warmth will give me credit for my sincerity. Thinking as I do, I could not repress it. It was the first lesson of my youth to go where duty led; hitherto I have pursued that course. I have found it the road to conquest, and shall teach it to my children. Had I not, on this occasion, trodden this path, I should have considered myself unworthy of the confidence of those who have sent me here.

Mr. T. M. RANDOLPH.—Mr. Speaker: I hope the House will not consent to postpone these resolutions. I hope it will, on the contrary, immediately proceed to consider them, and conclude by adopting them, for, taken generally, they meet my warm approbation as to the principles they lay down, and I am, anxious to see the last one,

which is the fair corollary of the other, incorporated into the bill now before us.

It is with reluctance I trouble the House this session, after so long forbearance, with my opinions and sentiments not yet sufficiently matured by any experience in legislation; but my opinion on this question is so decided, my sentiments at this moment are so strong, and I know them to be so consonant to those relative to this subject which are most prevalent in that district of Virginia I have the honor to represent, that my inclination and my duty combined, impel me irresistibly to make an attempt to communicate them. Besides, when an opinion must be publicly pronounced, as mine must be in giving my vote on this question, and it appears to be obnoxious, perhaps I might say unsafe, to assign, in bold and apt words, the reasons which give rise to it, then, in my mind, it is not manly to retain or to veil those reasons. When hatred, it may be dangerous is likely to ensue from the declaration of truth, then, above all times, I deem it my duty to utter it; for, when many decline that necessary service, none of those who are willing to undertake it can be spared. I have little hope of performing this task in an impressive and agreeable, or even in a smooth manner, but I shall perform it. To do what I conceive to be my duty is my business; the peculiar manner in which I do it is the necessary result of that manner in which nature has formerly done her duty towards me.

My opinion is, that it will cast a broad stain on the American character, as it must be exhibited in future history, for this body which represents it to grant compensation for their pretended losses, under whatever form ingenuity may invent to disguise it, to any of those adventurers who made the spurious contract with Georgia in the year 1795, for the purchase of her western territory, upon the ground that the fictitious bargain gave the least shadow of title to any part of that territory. This opinion is a conviction irresistibly given, to my mind, by an impartial investigation, that what were at that time called companies of land adventurers, were, with the exception of one or two misled individuals, whose delusion and consequent implication I lament, no other, in their conduct on this occasion, than shameless bands of sharpers; what was impudently called a contract, was, in reality, a fraud of unprecedented enormity, and what has since been declared an unjust interposition of the primary sovereign authority of the State, to cancel a fair bargain, was no more than the regular and proper application of the only sufficient means which could be used to redress a cheat upon the people of Georgia of unparalleled audacity and magnitude. I am sorry, by entertaining this opinion, to differ with so many on this floor, with whom it is my pride to think; but I am not much surprised at that difference. Very rarely, indeed, have I heard of important questions which did not divide opinions; never have I been at a criminal trial where numbers did not doubt the reality of the crime. Such is the difference in the impression made by the same testimony upon different minds. Were it not for

this extraordinary circumstance in our nature, which almost precludes unanimity, and which completely defies explanation upon any general principles of the moral structure of man, there would be but one sentiment in this House upon the question now before it. The information which has satisfied my mind, I have derived from the declarations of the counties of Georgia, in their petitions and remonstrances presented to the convention of that State, which assembled in the month of May, 1795; from the acknowledgment made by that convention of the dignity of those applications, and the respect due to them, in the resolve which referred the matter they contained to the consideration of the succeeding Legislature; from the proceedings of the General Assembly of 1796, upon that matter, and the evidence it collected and recorded relative thereto; and, lastly, from certain declarations and provisions confirming those proceedings, and thereby establishing that evidence, which were made by the convention of 1798, and which exist now in the body of the present constitution of Georgia. The same means of information are within the reach of all; I ought to say, should be possessed by all; I might say, should be satisfactory to all; since the witnesses are the great body of the people of one of our respectable States, and the testimony is authenticated, confirmed, and preserved, as well by the constitutional as the ordinary code of that State.

It has not been my object in making this inquiry, to learn in what deep sharper's brain this scheme was first engendered, which of the associates stood most prominent in the development and execution of it, how the price paid for the flagrant treason against posterity was apportioned, or how the spoil obtained by such a stupendous larceny, committed upon the inheritance of the unborn, was divided. I have not desired to know, and it would be unimportant to the House to be informed, which of the associates had no moral sense at all, whose conscience was subdued by his avarice, or who, unthinkingly, gave the control of it into the hands of his friend. I desire not to see any name consigned to infamy; of those which have come to my knowledge, one or two I yet respect; the remainder have not more distinct images annexed to them, in my mind, than those of the men who conceived and executed the South Sea cheat in England, or the Mississippi fraud in France. But, from the investigation I have made, I have learned, as certainly as the actions of men can be known to others than the actual beholders of them, that the Legislature of Georgia, which commenced its session in the autumn of 1794, was assailed by every possible artifice of seduction, to procure from it the act of 7th January, 1795, which constituted what has since been impudently called the Yazoo contract. That it yielded to those artifices, and a considerable majority of its members became treacherous to their constituents, and deaf to the voice of their honor. That bribes were daringly offered and unblushingly received for votes in favor of the land. That the property

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of the State of Georgia, to the amount of forty millions of dollars, at the most reasonable estimate, was sold by those trustees of the people of Georgia for one half million, and purchased by the sellers themselves, in combination with certain abject worshippers of gold, who had artfully infused into them their blind fanaticism. That another offer of four-fifths of a million, made by other men at the same time, was rejected, because the Legislature itself was concerned in the first. That the Chief Magistrate of the State, after one feeble effort of resistance, and a declaration which ought to have bound him to an obstinate opposition, with a conduct which, to my mind, manifests a thorough knowledge of the corrupt views of the Legislature, as well as a want of energy to defeat them, yielded to the impulse, and ratified the fraudulent sale. That the moment his irresolute hand gave the illusive sanction to the vain and ineffectual deed, this ravenous pack of speculators, keen with the hunger of avarice, unkennelled and scoured the whole peopled territory of the Union in quest of their appropriate game—the simple, the credulous, and those who are hoodwinked by the excess of their own cupidity. The most voracious of them sought the great cities, where numbers of the thirsty sons of gain became their prey, while numbers more joined in the promising chase, led the way to the victims, and fattened on their spoil. Many, more fell in their nature, though less keen in their appetites for gold, traversed the tranquil country of New England, scenting the homely purses which hung in the smoky corner of peaceful cottages, into which the solitary dollar had been dropped with religious punctuality every week, perhaps every month only, by the hand of the provident father, from the time when the first birth under his roof gladdened his heart. Great numbers of these receptacles of hard-earned gain, with all their rusty treasure, the fruit of long continued industry and frugality, destined to insure to many of the rising race the innocent joys of a life of wholesome exertion in their own fields, were devoured by them, and that happy destiny in a moment changed for a short period of certain pain, and, too probable, vice, in the moving prisons of the ocean.

The promulgation of the law produced one general murmur of indignation throughout the State of Georgia. The crime committed by the representatives of the people was strongly denounced by the grand juries of all the succeeding courts. An assembly of special representatives, which had been summoned for constitutional purposes, meeting in the succeeding spring, was addressed by all the counties of the State, and by nearly the whole people of it, with memorials, remonstrances, and petitions, according to the different degrees of excitement, all setting forth in strong terms the nefarious act, complaining with bitterness of the perfidy of the Legislature, requiring, urging, and imploring the convention to proclaim the fact, and annul the fraudulent sale. No laborious investigation into the huge and naked scheme of speculation, no troublesome search after testimony to expose the framer of it was ne-

cessary. Nothing was requisite but to receive, condense, and record the decisive evidence voluntarily offered from all quarters. But this legitimate and easy task the convention, naturally enough, thought fit to decline, as many of its members were themselves openly\* concerned, and many more secretly interested in the purchase. The pack of speculators were then in full cry, the game were falling abundantly into their jaws; it could scarcely be expected that those who had contributed so much to set this chase on foot, who expected to share so largely in its profits, should sound the horn of alarm to the objects of it. It quickly occurred to a majority of this body, that a reference of these addresses to the Legislature of the next year, would not only give time for the continuance of the chase, but might be productive of something like safety in the after possession of the spoils of it; while it promised to afford some shield against the popular discontent and indignation which a total neglect, so desirable to themselves, must inevitably have brought on them. Notwithstanding, before midsummer of the same year, the fraudulency and consequent invalidity of the sale must have been unequivocally known throughout the Union, by the ferment in the State of Georgia. Early in the succeeding year all the records of State relative to this transaction were burned, and all recorded evidences of private contracts which had arisen out of the land were cancelled, destroyed, and forbidden to be renewed or afterwards admitted in the courts by the Legislature acting under the authority to consider the matter, and of course the power to redress the complaint of the petitions, which had been given to it by the convention, and also under the express injunction of the people themselves, laid on the individual members of that body at the elections. But the speed of the sharpers had outstripped the slow step of the State. They had, in a great measure, executed their swindling scheme; a number of their dupes were already, instead of amusing their own credulity, insincerely, and I will say, insolently, accusing the perfidy of Georgia.

That was a blot made which never can be completely expunged from the page of American history. It is local, however, and as yet stains but one small spot of that fair sheet. And shall this body, the genuine representative of the American nation, influenced by the clamor of sharpers and the complaints of their dupes, by admitting the bill now pending before it, by refusing these counteracting resolutions proposed to it, extend it over the whole?

I trust we will not. I feel confident we shall, by adopting the one, and rejecting the other, diminish the disgusting spot, so that it shall scarcely be offensive to the eye of the reader of distant futurity. If we do not, it must appear to that eye deeper than any stain of venality in the annals of that nation which affects to believe that corrup-

\* Compare the lists of associates of the four companies, as far as they have been brought out, with the list of members of the convention.

tion is politically wholesome; blacker than any blot ever thrown upon that page by the unnatural alliance of Christian avarice with Mahometan cruelty against that devoted country, for the oppression and ruin of which all the vices of the cross and the crimes of the crescent seem to have combined; insomuch as we declare public and private morals to be the only pillar which can support our system, while they openly avow the desire of gain to be the most valuable spring of human actions. Let us not show to-day that our belief is feigned. Let us demonstrate it to be serious. Let us go further, and display the same tenderness for the future character of the American nation, of our time, which we individually feel for that private fame we are respectively to leave with our fellow-citizens hereafter. We may afterwards yield to the impulse of charitable feelings, and relieve, by moderate grants of land, and land only, I hope, all those sufferers who are entirely innocent of this crime, and sincerely ignorant of its perpetration. That innocence and ignorance, or the contrary, guilt and acquaintance with the fraud, can be collected with considerable certainty by an attention to the times and places in the written evidences of the pretended claims, as they must display the information relative to the nature of the transaction which might and ought to have been possessed by the purchasers. Some atonement is due from the State of Georgia for the perfidy of so many of her exalted citizens. She has acknowledged that it is due: she has provided for making it, by placing five millions of acres of land in our hands as a fund for that and certain lesser purposes. The task of applying that fund we have willingly assumed. Is it possible we can coolly resolve, in performing the voluntary service, to insult, most grossly to insult, that respectable State by granting any part of that fund to men whom it has stigmatized, whose conduct in this affair it has in its primary sovereign capacity solemnly pronounced infamous, and whom its representatives on this floor continue still, by the part they take in this question, bitterly to denounce? Surely it is not possible we can give this insult to the State of Georgia. We know she must have intended, if not that an exact discrimination should be made, at least, that a complete exclusion of all the parties to the original fraud, and all the propagators of the mischief of it, should be effected. For myself, I believe the former was the intention, as I know it now to be the wish of Georgia. What will the people of that State think of our conduct if we act otherwise? What should we think of trustees who should render inaccurate expressions in an instrument of trust; bestow upon the highwaymen or incendiaries themselves the best part of a donation, placed in their hands by charitable persons, for the relief of sufferers by highway robbery or by wilful burning? I trust we shall apply this fund for the relief of the real sufferers. I know that it is greatly more than sufficient for that purpose, and I hope the United States will not be forced by Congress to assume a heavy debt for the increase of it, in order that it may be

extended further than charity or justice requires, to objects on which benevolence could not look, and at which justice shakes her head. I trust we will revive the hopes of those good parents of whom I have spoken, and we will restore the destiny of their injured children, but I cannot believe we will consent to admit to a share of the bounty of Georgia, along with them, the wicked contrivers of their distress. Those eagles in human shape, although they were driven with disgrace from the gigantic prey at which they had audaciously stooped, have borne afar immense booty in their rapacious talons. I am assured that somewhat more than a million\* of dollars has been truly amassed by them, all from the fraudulent sale; and that of the half million which was paid to Georgia for a property worth then forty millions, and rapidly rising in value, till checked by a late occurrence, five-sixth parts has been withdrawn by them, with her permission, from her treasury, where it lay despised and untouched as polluted trash. Not yet glutted, they now threaten, insolently threaten, to return to the rescued prey, and under assumed, for ought I know innocent names, boldly solicit ten millions from the nation as the price of their abandonment of it. Nay, they have become so fastidious at length, that they now disdain any portion of the destined prey itself. † They require their indemnity for its having been forced out of their talons in American stock. Yazoo stock! Ten millions of Yazoo stock! Heaven preserve our ears from this frightful sound. That of Algerine tribute has always been so distressing to mine, that I have often wished the nation would risk some of its blood to purchase the eternal suppression of it. When once they become subject to be assailed in passing the walls of our treasury by the hideous note of Yazoo stock, from that moment they must become forever callous to all tones which convey the infamy of my country. What excuse can we make to the nation for not carefully excluding them from the additional emolument by their iniquity, which they now boldly expect? Can we say there are no discriminating powers at our command, by which we can separate the real sufferers by their fraud, from the contrivers of it, and the selfish propagators of its mischief? Surely we cannot. The original lists of the four companies, including all the associates, certainly cannot be so carefully hidden as to elude all search. Surely an attention to the proximity or distance of the residence of those claimants who were afterwards involved from the scene of the iniquitous act, and a notice of the period when that iniquity became notorious, will enable any tribunal to distinguish the innocent and ignorant purchaser from the

\* Those who have sold, deny that more than a trifle over a million has been received in the whole; those who have bought, declare they have paid three millions. What has become of the difference? It has never existed.

† See propositions two and three, made to the Commissioner of the United States, by Hull, Morton, Dexter, Payne, &c., the names now assumed.

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fraudulent and knowing speculator, with some degree of accuracy, if not with a precision sufficient completely to satisfy justice. Are we compelled, by our agreement with Georgia, to throw down what her humanity has put into our hands for the relief of the innocent sufferers, (and surely we will not insult her by presuming she meant to include the guilty,) that it may be scrambled for by all the claimants, and seized in the proportions which antecedent cunning and swindling dexterity may have destined? We cannot say we are. Yet what else shall we be doing, if we pass this bill, and thereby confine our commissioners to the literal proofs of those false though specious claims—if we neglect to give them the power, if we fail to instruct them, I ought to say carefully to sift out of the claims all evidence of the original fraud, or of a probable acquaintance with it, which they may contain, and reject or admit them by that test. Ought we not to expect that all the disinterested in the nation will be struck with astonishment if, while some of us are proclaiming the odious origin of these claims, a majority, without disproving our assertions, should pronounce them all to have some legal foundation, and proceed to give indiscriminate relief to the holders of them? For myself, I must hear much more than I have yet heard in support of that opinion, to remove my amazement at it. Surely there cannot be so wide a difference between law and justice, that the former can embrace what the latter must loathe. I have heretofore thought, notwithstanding the simple, uniform, and universally manifest character of the one, and the complicated, various, occult nature of the other, that their essence was the same. I have always believed and till now thought all men concurred with me in the belief, that whatever was manifestly fraudulent must be illegal; that no lapse of time, no change of circumstances, no complication of numbers or of influence, could legalize it. I have further believed that no act of any Legislature, manifestly immoral and unjust, could be deemed genuine, and be afterwards calmly received as binding on the State. These points of belief I shall ever retain, and were my tenderness less for the gentlemen who differ with me on this question, I should not hesitate, trusting yet to their concurrence, to conclude now by calling on them to disprove the history we have given of those claims, or to withdraw their favor from the claimants, to consent to the consideration of those resolutions, and ultimately to the rejection of the bill before us.

But my deference for the sentiments of those gentlemen, leads me for a moment to abandon these all-important axioms of social and political morality, which I have just stated, and which they seem to disallow by advocating the claims; for a moment to admit that a Legislature may, in some way, derive from a constitution the power to do acts manifestly immoral, unjust, and treacherous; that corruption may be purified, fraud may be sanctioned, robbery may be made to give a valid title, by Legislative authority. They will, I make no doubt, with equal complaisance, per-

mit me to demand some admissions of the same nature from them. A government can then, by construction or inference, derive from a constitution the power of plundering the State, and may legitimate the act, so that individuals, into whose hands the plunder may fall, shall be able afterwards to defend their possession of it in courts of justice. Because no literal prohibitory declaration exists in the Constitution of the United States, any more than in the former constitution of Georgia, to guard against what honesty could never have foreseen; their Government, too, may legitimately transfer, for a trivial consideration, to its own members, or to favored individuals, for their private emolument, the best property of the nation, to any amount. Congress can now constitutionally pass a law to divide the contents of the Treasury among the individual members, for imaginary or trivial services, after stipulating a participation; because it has the power to give compensation to those who may render real services to the nation. Nay, because the Senators and Representatives may, by their own vote, take a compensation for their services from the Treasury; they might, also, applying a loose construction to the term compensation, divide the contents of the Treasury amongst themselves, to indemnify them for the long privation of domestic happiness they are here compelled to undergo; and they would be liable to nothing more, therefore, than the neglect and contempt of their constituents.

These positions admitted, I could not refuse to grant, that the Legislature of Georgia, of 1795, could have legitimately sold to companies composed of their own members and others, for a price less than the annual quit-rent the same lands would have paid formerly to the Crown of Great Britain, forty millions of acres of the finest lands in the world, belonging to that State. But in granting it, I should deem it my duty immediately to move this House to take into consideration, with all speed, the necessity of increasing the list of prohibitory clauses in the Federal Constitution. I would recommend, along with numbers of others which would be as necessary, the following: The Senators and Representatives shall not plunder the Treasury under pretext of requiring themselves for their services; the members of the Government shall not engross to themselves the national possessions. Certainly, if it is maintained that a subsequent Legislature can have no power of punishment or of resumption where the plain letter has not been disregarded, such prohibitions as these, ought, without delay, to be adopted into the Federal Constitution. If otherwise, then is the Yazoo tenure ridiculous indeed, for by that doctrine alone, could it be supported.

My respect for our opponents in this question, still prevents my concluding here. I will endeavor to show them that that tenure was contradictory not only to the general laws of equity, but also to the then existing constitution of Georgia, and, accordingly, absolutely null. I have always understood that in equity, a bargain, (above all, for land,) though quite clear of any other symptom of fraud, could not be valid unless it included

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a valuable consideration. That the circumstance of the consideration being so ridiculously trivial, as to what was agreed to be accepted by the Legislature of Georgia, would be sufficient to cancel any bargain for land between individuals, even after it came into the hands of a subsequent purchaser, if he had made his purchase after open denial of the contract, and public reclamation by the original owner. This was not only a rule of equity in Georgia, but a principle recognised by a positive law of that State. (See *Marburie's Digest of the Laws of Georgia*, page 116.)

The price agreed to be paid to Georgia was one cent, and one-fourth of another cent, per acre. The lands sold were, in a great part, among the most fertile of the earth, situated in one of its finest climates, and adapted to all its richest productions. They were sold too, not to citizens of the State alone, and men with agricultural views, but in a great measure to strangers, and altogether to speculators, who meant to demand some hundreds of cents from the sub-purchaser with cultivating intentions. This immense difference would soon have disappeared, swallowed up in luxuries; perhaps the farmer would have been ejected from his farms because his toil did not produce fast enough for impatient appetite. The people of Georgia, the true owners of these lands, immediately reclaimed them, as I have shown, in the most public manner; and among other stronger reasons, upon the ground of the insignificance of the consideration stipulated for by their trustees; and they instructed their next representatives to resume them. These representatives did so; and their act of doing so was solemnly ratified by a Convention.

But many gentlemen here contend, notwithstanding, that the law was irrepealable, and that the contract made by it, however irreciprocal, was valid and indefeasible. I shall make no other reply to them than to endeavor to expose still farther the illegal foundation of that contract. Taking my eyes for a moment from the fraudulent nature of it, I will endeavor to look seriously into the Constitutional character of the pretended law which established it—I will examine more nearly the ground upon which it was framed. I trust I shall be able to show that it stood on a basis of perjured misconstruction, which the first honest breath blown against it completely overturned. It is not requisite to show that the Legislature of Georgia, which convened in December, 1794, had no powers but such as were directly, or through honest inference, granted to it by the convention of 1789. The members of that Legislature themselves claimed no others. It is not necessary, either, for us to search throughout that instrument for a special grant of power to support the law of January 7, 1795. The members themselves selected the head which they pretended to believe contained that grant. Let us examine it: "The General Assembly shall have power to make all laws and ordinances which they shall deem necessary and proper for the good of the State, which shall not be repugnant to this constitution." Under such a narrow and flimsy cloak

did they expect to hide this gigantic fraud. But this was the peculiar folly of those times. Under such another did certain political assassins, not long after, attempt to strangle unseen the infant liberty of America.

The very next section of the constitution says, "the General Assembly shall have power to alter the boundaries of counties, and to lay off new ones out of them, as well as out of the other vacant territory belonging to the State;" again—"and when any new county shall be laid off in the vacant territory of the State, such county shall have a number of representatives," &c. How could it be other than repugnant to the Constitution to render entirely nugatory this important provision of it? Does not the constitution plainly enough prescribe a division into counties before a sale, by this provision, for a representation in that case, and by totally neglecting to make any kind of provision for the case of sale before a division? Is it possible the framers of the constitution could have foreseen, imagined, or deemed possible, the case which actually happened, and, at the same time, have used the language they did? If the term county was understood to imply representation of course, and the constitutional power to divide after the sale, why was so particular provision made for representation in those counties to be formed out of the waste and unappropriated lands? A power is expressly given to lay off counties within other counties, or in the vacant and unappropriated lands of the State, with a view that representation should coextend with population. The territory after the sale was neither; of course no power remained to divide it into counties, but that power being expressly given, none could have been given to defeat it: yet that was completely done by the law on which these claims rest. One preceding Legislature had laid off the county of Bourbon on the Mississippi—no doubt supposing that to be the true meaning of the constitution which we have given—and had actually proceeded to make grants or sales of land within it. Another had rejected an application to purchase the territory in conformity with the report of its committee, consisting of one member from each county in the State, which report, it is likely, was founded upon the construction we maintain. One, it is true, had acted otherwise; but the eagerness with which the succeeding one seized an occasion that presented itself for retracing the steps of the former, is an additional proof that what we contended for was the sentiment of the State. But the Legislature of 1795, actuated by the motives I have displayed—its prime movers, perhaps, instigated by certain juggling politicians from the North, who preferred to attain the justly desired end of separating that territory from the State, and thereby diminishing the dangerous size of Georgia, by intrigue rather than the plain means since adopted—the Legislature of 1795, I say, in contempt of the general sentiment of the State, in open violation of the constitution, made one sweeping sale of the whole territory for a contemptible price. Nay, with the words of their oath—"I solemnly swear I will give my vote on all questions as in my



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judgment will best promote the good of the State"—with these words yet vibrating on their tongues, they rejected four-fifths of a million offered at the the same time, on the same terms of payment, and, to promote the good of the State according to their peculiar judgment of it, we must suppose, took one half million. But perhaps they knew that those who offered the \$800,000 were not as sure paymasters as themselves; or perhaps they thought the honorable body of notables of Georgia, which, although numbers of it expressed a noble disdain and indignation at the transaction, was yet fully represented in the companies; or perhaps they thought that was the true thing meant by the term State, in the constitution. Such an hypothesis was not unfashionable in those days, above all in what were supposed the most enlightened parts of the Union.

I might have been abruptly stopped by an observation that we had no right to consider the constitutionality of the laws of Georgia, any more than the morality of her lawgivers; but a shield, which has blunted so many darts that the stoutest of our foes of the present day seem fonder of making feints than hurling seriously at it, stands interposed between me and that attack. I have only to repeat, that, in considering the question before us, we must pronounce between the law of 1785 and that of 1796; that to execute the trust we have undertaken for Georgia, we must decide upon her discordant legislation. I will go on with considering further the constitutionality of the law of 1795. Those particular arrangements which we have shown were made by the Georgia constitution of 1789 for the incorporation of the western territory into the State, surely ought to have extinguished, even in the womb of infancy, all embryo construction for alienating the territory from the jurisdiction of the State; and the law of 1785 did most completely alienate the jurisdictional right of Georgia, along with the soil. The territory, after the grant, could not have been divided into counties; its inhabitants, by an express provision of the grant, could not be taxed by the ordinary Legislature until represented, nor could they have been represented in it under the then existing constitution, until divided into counties. The provisions of the constitution for the incorporation of the territory could not have applied after the grant, for they were expressly made for vacant and unappropriated lands. The jurisdiction of the territory was then lost to Georgia, and of course transferred, though informally, yet substantially, and no doubt designedly, to the United States. Designedly, I make no doubt, for by this renunciation of State jurisdiction, thus artfully interwoven into the contract, the value of the lands was so plainly enhanced. Purchasers from abroad and from the other States would have come forward in great numbers and with much greater alacrity, knowing privately that the territory would come immediately under the Federal jurisdiction, and be sooner erected into new States. Who can believe that the associates and those who held under them, once settled in their territory, and this hidden grapple I have endeav-

ored to discover, once thrown out by them upon the Federal Government, the strength of Georgia ever could have broken it? But until the constitution of 1798, no power ever existed in Georgia, unless in the whole body of the people collectively, to make an alienation of the territory of that State. Authority for that since made to the United States was given by the convention of 1798, and such a power, it seems to me, can properly flow only from that prime source in any of the States.

That there is a necessary and inherent power even in our national Government to alienate and acquire territory at will, I am not ready to admit. It cannot be necessary where a recurrence to the primary authority is so frequently, so easily, and so safely made as with us. To say it is an inherent power in all governments, from the nature of government, even though not absolutely necessary, would be looking abroad again for analogies, and so far relinquishing our own peculiar and excellent theory. Having purified so well the turbid waters we drew from the political fountains of Europe, better to cut off all communication with their impure sources, than again to admit from them any little rill which might once more discolor our now almost transparent stream. I can never admit a right in any Government which is founded upon the sovereignty of the people, whose sole legitimate end is their good, to grant monopolies of the unappropriated soil. No possible restrictions can, in my opinion, prevent such monopolies from operating powerfully against that good and against the essential principles of such Governments. Besides, many individuals among the people have, according to my idea, just claims upon the nation for free grants of such lands. Poor men, who have lost their limbs or their health in defence of their country, even though they may have received a pittance of daily pay; poor persons upon whom nature has bestowed an uncommonly numerous offspring; poor and virtuous citizens who have married early in life, and having the prospect of a family to maintain sooner than the savings of labor could accumulate sufficiently to insure that maintenance against accidents to the parent, which might suspend the power of labor. All these, I contend, have the right, and it is at least as well-founded as that of not famishing for sustenance, from society.

There are certain conditions, it is true, not improper to notice here, though not altogether pertinent, upon which alone this right should be acknowledged on the part of Government. These are, an actual settlement of the lands immediately, an abandonment of the rights of alienation during the first lives, an equal division among successors. This right is necessarily admitted by the calls for new establishments of those who are able to purchase, which arise continually from the increase of numbers, and of agricultural capital. By answering such at a just price, the national strength, which consists in the number of proprietors, is equally increased as by gifts, and at the same time the national resources are enlarged in the most desirable way—the voluntary contributions of the able. The liberty of a nation it is

true, like that of the rich individual, should always keep in view the ratio of necessary expense, to the amount of the certain and natural resources. It should be more ready, yet at the same time not less prudent and discerning. But by monopolies of the soil, this right of certain citizens, which I have mentioned, is destroyed; liberality itself is extinguished; the national resources are sacrificed for the pernicious aggrandizement of those already too high, to the still greater debasement of those already too low. Innumerable are the evils arising out of them, which appear at once to the examiner's eye, and demonstrate that the power to grant them cannot constitutionally exist in any of our Governments, unless especially delegated.

If this view I have endeavored to lay open to the grant from Georgia, which is the basis of these claims, be fairly taken, no one, I think, can seriously apprehend the legal ejectionment from their possessions, of those who may make purchases or receive donations from the United States in the territory pretended to be claimed by the Yazoo adventurers. I cannot believe myself that they will ever venture into the courts of justice of the Union with their fictitious title paper in their hands; in every line of which the word fraud will appear at once in large and indelible characters. If they should, contrary to my expectation, be daring enough, I cannot think so injuriously of any judge of the Union, as to apprehend, that, maintaining the power which sold to be legitimate, shutting his eyes upon the unexampled perfdy of the sellers, denying the early publicity of the fraudulent nature of the transaction, rejecting the authority of the subsequent Legislature to resume the property upon evidence of these, and also the paramount authority of the convention to annul the law, which was acknowledged by the adventurers themselves in withdrawing their money; last of all, declaring the consideration paid by the original purchasers to be sufficiently valuable; he will pronounce the law of Georgia, of 7th January, 1795, to be binding and to preclude equity from the State. Not every judge on the bench of the Union will, I firmly believe, at once declare this law null, all contracts made under it void, and all considerations given upon them reclaimable. If I thought otherwise I would readily acquiesce in any, however strong, remediable measures. I would vote for a law forbidding the admission of such evidence into our courts. If nothing else would do, I would even give my voice in this House for imposing a heavy penalty on the man who should dare to assert such a detestable claim to the indisputable property of the nation, and thereby disparage the property. Our opponents say, the danger of being dragged into courts of justice at any distant day, however uncertain the apprehension of that anxiety, which the most distant prospect of being dispossessed in our old age of buildings, orchards, gardens, established by our own hands, must naturally create in men, will keep all purchasers aloof, will effectually prevent all sales, and keep our most important and most exposed frontier

forever weak and defenceless. I answer, let those lands then remain unsold: the nation will sustain no damage in its interest thereby, for it has more at market elsewhere than the demand is likely to take for a great length of time. It is even my opinion that interest will be materially forwarded by the suspension of sales there at this time. It is not, I say, a weak and defenceless frontier, which it is so necessary to strengthen immediately with new settlers that the attainment of that end could justify our giving a bounty to fraud. The most vulnerable point of the Union is now removed many hundred miles farther from the centre, and every settlement made elsewhere at present contributes to diminish our means of covering that point with the impenetrable armour of a republican militia.

Shall we permit those motives of policy to govern us in this happy time of assured peace, unexampled prosperity, and rare tranquillity and unanimity, which we should always reject with disdain if it were not that, if not the stratagems and deceptions, at least the forbearances towards fraud, vice, and crime, often necessary in actual war, are thought in some degree justifiable also in certain other periods of national danger, embarrassment or difficulty? For myself I never could have lent my voice in this House to support that policy, even when such reasons had their strongest force. Much less can I acquiesce now. I cannot consent that this Government should draw a veil over its eyes to admit the approaches of fraud. I cannot give my consent that it should tamely suffer itself to be bullied out of such a serious portion of the national wealth, as \$2,500,000, which a former act of these Houses has led our commissioners to offer in order to quiet these unfounded claims. I have yet the strongest hopes we shall dismiss them unsatisfied by rejecting this bill. Surely we will not, by passing it, enable with Legislative favor the mysteries of speculation: we will not hold out to the tribe of speculators an expectation that this Government will in future gratuitously underwrite on all their land adventures, if they will be moderate in their insurance. Our bounty to the innocent sufferers will do no trifling mischief, by removing from credulity its only restraint, timidity and doubt, which otherwise must have been greatly fortified by this distressing example. I hope, however, we shall extend that bounty to them. But upon the adventurers themselves, or on those who knowingly embarked with them in this desperate and infamous scheme, the nation's forgiveness and its silence is the only boon I will ever give my voice to bestow. We shall, I ardently hope, grant them no other here. If they reflect I think they will accept that and retire; let them do so, and in retiring, let them silently return thanks to the great Creator of all things for his bounty to man in granting him through this life a free will, uninterrupted, unrestrained by heavenly interference. But for this bounty, the wrath of Heaven would have arrested them in the commencement of their scheme. They have made that use they thought best of Heaven's favor; they have coolly projected

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and pursued their own chosen plan for advancement in life; let them not look to this Government for aid to bear them up under the disappointment of its failure. But a few days since, their hopes were high: they expected immediately to attain by our supineness the end of their forcibly moderated desires. Thank Heaven, by the bold use of its most noble gift, which was then made by one gentleman particularly in this House, they were suddenly stopped in their progress, and that hope, unless they are thoroughly blinded by their own ardor, completely extinguished. They escaped the thunder of Heaven, but they have not the certain earthly punishment. Since that day they have stood in the eyes of an indignant nation, riven, blasted, stripped of all the lovely foliage of reputation by the lightning of eloquence.

Mr. LYON.—Although, sir, I have no wish to assume the character of the cunning and sagacious fox of the temperate zone, I am willing to be allowed to possess a share of the magnanimity of the animal whose name has accidentally fallen to my lot, with which magnanimity I will meet the resolutions of the gentleman from Virginia. Certain I am that I come forward on this occasion with clean hands and a pure heart, wishing for a discussion of this subject on the broadest basis. I wish to let my constituents and all the world know the principles that govern me; I am willing to publish my creed on all questions of civil policy involved in this or any other subject that shall come before this House.

The gentleman from Virginia has brought forward certain resolutions, which have been published, and have been called the articles of the creed of the democrats. I am a democrat, and am very free to declare that they are not the articles of my faith. Those articles, in their present shape, contain what I call political heresy; and, rather than be obliged to swallow them, I would be willing to risk the imputation of schism; and should it take place in the democratic church, I am willing to leave the democratic republicans of America to judge who has been the cause of this schism—he who attempts to force his unequalled creed on the public and on Congress, or he who offers amendments, and cannot swallow it in its present crude state.

A few days since I mentioned my intention of introducing, in the course of the discussion of this subject, some amendments, which, with others that on deliberation I think necessary, I will now read, in order to declare my intention of getting them incorporated with the original resolutions. [Here Mr. L. read twenty-one amendments with the original resolutions of Mr. RANDOLPH, as they would read when such amendments were incorporated, as follows:—\*]

\* The parts in *italie*, with several omissions and alterations of words, are Mr. LYON's amendments.

1. *Resolved*, That the Legislature of the State of Georgia were at no time invested with the power of alienating the right of soil possessed by the good people of that State in and to the vacant territory of the same but in a rightful manner, and for the public good,

These resolutions, thus amended, said Mr. L., I am willing should be considered as the articles of my faith, so far as they go; but as other gentlemen have taken the liberty to depart from the question of postponement, and enter into the merits of the whole subject before the House, I hope I shall be indulged in now submitting the observations I had contemplated to have delivered on the bill when regularly under consideration.

Among the various subjects which have called for the attention of this House the present session, I believe no one has caused so much irritation as the present, and in no one have I been more mortified to be obliged to give my vote and opinion contrary to that of many gentlemen of this House with whom I have been in the habit of thinking

*of which such Legislatures are the Constitutional judges.*

2. That when the Governors of any people shall have betrayed the confidence reposed in them, and shall have exercised that authority with which they have been clothed for the general welfare, to promote their own private ends, under the basest motives, and to the public detriment, it is the inalienable right of a people so circumstanced to revoke the authority thus abused; to resume the rights thus attempted to be bartered, and to abrogate the act thus endeavoring to betray them: *provided that the public faith and the confidence necessary to be placed by men in each other, and the confidence necessary between the Government and individuals, be not impaired.*

3. That it is in evidence to this House, *by ex parte depositions*, that the act of the Legislature of Georgia, passed on the seventh of January, 1795, entitled "An act for appropriating a part of the unlocated territory of this State for the payment of the late State troops, and for other purposes," was passed by persons under the influence of gross and palpable corruption, practised by the grantees of the lands attempted to be alienated by the aforesaid act, tending to enrich and aggrandize, to a degree almost incalculable, a few individuals, and ruinous to the public interest: *but whether it is so or not this House is by no means competent to decide, nor does it possess the means of forming a just and impartial decision upon the subject.*

4. That the good people of Georgia, impressed with general indignation at this act of *supposed* atrocious perfidy and unparalleled corruption, with a promptitude of decision highly honorable to their character, *under such impressions*, did, by the act of a subsequent Legislature, passed on the thirteenth of February, 1796, under circumstances of peculiar solemnity, and finally sanctioned by the people, who have subsequently ingrafted it upon their constitution, *which to this House appears to be strong testimony that the said Legislature had not previously a right so to do*, to declare the preceding act, and the grants made under it, in themselves null and void; that the said act should be expunged from the records of the State, and be publicly burnt, which was accordingly done; provision at the same time being made for restoring the pretended purchase-money to the grantees, by whom, or by persons claiming under them, part of the said purchase-money has been withdrawn from the treasury of Georgia.

5. That a subsequent Legislature of an individual State has an undoubted right to repeal any act of a preceding Legislature, provided such repeal be not forbidden by the constitution of such State or of the Unit-

and acting. This makes it the more proper for me to detail the reasons which have governed the vote I have given on this occasion, and will govern those it will be necessary for me to give.

In the first place, I will endeavor to take a concise view of the history of this subject as it occurs to me.

The State of Georgia claimed a great country lying between the settled part of that State and the Mississippi; part of this territory was claimed by the United States, and I believe part by South Carolina. Georgia was, with the other States, (having claims of unappropriated territories,) invited to cede those claims to the United States, the acquirement of those countries having been effected by the common exertions of the people of all the States. Georgia had suffered more, and I believe had fought more in the Revolutionary war, according to the number of her whig inhabitants, than any other State; she felt her sufferings; she met with harsh treatment and neglect from the Federal Government in the early part of the Administration, and she was not disposed to relinquish her claim to the Western country. As early as 1789, it seems the Legislature of that State made a bargain to sell a great part of that country to certain companies called the Virginia and South Carolina Yazoo Companies. On account of non-payment, or owing to some other causes, that bargain was not consummated, and the Legislature of Georgia, in or about the year 1795, offered these lands for sale, and did actually, by an act of their Legislature, dated 7th of January, 1795, and by Executive acts founded thereon, sell and convey by deed their claim and title to about forty millions of acres of that territory, for which they received the compensation agreed on. The succeeding Legislature, it seems, did not like the bargain their predecessors had made. They thought they did not get price enough for the land, or they thought if they did, they put too much of the money in their own pockets. Until

*ed States; and provided that such act is not a pledge of faith to any individual or body politic or corporate, and does not purport to invest any individual or body politic or corporate with any individual right.*

6. That the aforesaid act of the State of Georgia, passed on the thirteenth of February, 1796, was not forbidden by the constitution of that State nor by that of the United States, *unless it affected the rights of some individual or body politic or corporate.*

7. That the claims of persons derived under the aforesaid act of the seventh of January, 1795, are recognised *impliedly* by compact between the United States and the State of Georgia, and by an act of the Federal Government, passed at the last session of the 7th Congress: Therefore,

*Resolved*, That the five millions of acres reserved for satisfying and quieting claims to the lands ceded by the State of Georgia to the United States, and appropriated by the act of Congress passed at their last session, shall be appropriated to quiet or compensate any claims derived under any act, or pretended act of the State of Georgia, passed, or alleged to be passed, during the year 1795, after making provision for other claims secured by law.

now, I never heard it contended that the Legislature of 1795 had not as ample power to dispose of the land as any succeeding Legislature would have had, in case it had not been sold. They, after declaring the sale null and void on account of its being effected by fraud, bribery, and corruption, endeavored to erase and destroy every evidence of the transaction. The proceedings of the Legislature of Georgia on this subject in 1796, carry on the very face of them a doubt of their ability to do away the title given in 1795, when they endeavor to perplex the holders of it by the destruction of the records.

By Commissioners on the part of the United States and on the part of Georgia, an agreement had been entered into lately by which all the title and claim remaining to Georgia on that territory has become vested in the United States. But this has not been done without fair warning being given on the part of the purchasers under the act of Georgia of 1795, wherein they state to the President their purchase, and the ground of their claims.

By the act of Congress passed March 3d, 1802, the Secretary of State, the Secretary of the Treasury, and the Attorney General, were authorized to receive propositions of compromise and settlement from the several companies of persons claiming lands in that territory. This law has been published and has operated as an invitation to those claimants to come forward with their propositions for a compromise of their title; and propositions have been accordingly made which it seems it is in our power to comply with, notwithstanding the severe limitation of Georgia, which does not allow the United States to give more than 5,000,000 of acres of those lands to quiet all the claims. This severe limitation is another strong expression on the part of Georgia of their doubt of the possibility of their doing away, by acts of legislation, the title given by the acts of 1795. I call it a severe limitation, believing as I do that the Legislative and Executive acts of Georgia did, notwithstanding the alleged bribery, legally and authentically convey to the purchasers in 1795, all the title of Georgia to the land so sold; and I do think that the possibility of compromise ought to have been left on a broader basis.

When I saw the convention between the United States and Georgia, I feared by this limitation that every attempt at compromise would prove abortive; that the holders of that title would not accept of what it was in the power of the United States to give, limited as they were in that territory. Thus all my hopes for the speedy settlement of that country were blasted; but I comforted myself before I left home with the thought, by the acquisition of Louisiana, the Government would be able to add (to what Georgia had consented should be given in compromise) a tract on the west of the Mississippi. Feeling as I do a high interest in the settlement of that country lying between me and the ocean, and between my residence and the seats of commerce on the Mississippi, a country which is now, and has long been, a harbor for bands of the most desperate

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robbers and murderers that ever infested any part of North America—who almost weekly rob or murder some of my neighbors on their return to their homes from market; the settlement of which country I well know must be retarded by the doubt of the title which is offered while two claims exist; or if settled under these disadvantages, it must be settled by people who, not being owners of the soil, will do but little good on it—feeling as I do on the subject, sir, I could not but be extremely pleased to find by the report of the committee to whom this subject has been referred, that a compromise was to be expected without looking to any other resource than the five millions of acres which Georgia had consented should be applied for that purpose.

And nothing could come more unexpectedly to me than the opposition to this compromise, and the arguments made use of to support this opposition.

In the first place, it is urged that the claimants under the act of Georgia of 1795 having obtained their title by means of bribery, it cannot be valid. I fear, Mr. Speaker, that if this principle was to be adopted, very few titles in the United States would bear investigation. I believe it was generally understood, before the Revolution, that there was no approaching the great personage who called the lands we now inhabit his own, for the purpose of obtaining a grant, or even coming at any of his agents in Europe or America for that purpose, through any other medium than the avenues of bribery, by presents and donations, which were to be distributed even among the lowest class of domestics, and I believe very little of the price of the American lands ever went into the Treasury; besides all other presents and donations, there is supposed to be at least 150,000 acres, the best lands in New Hampshire and Vermont, which were reserved by royal Governors directly for themselves, the validity of their title to which I have never heard called in question.

This principle, carried to its extent, would shake the very foundation of the title to landed property in this country; but it has happily never been adopted by any of the courts of the United States. On the contrary, those courts who have the sole power of deciding in cases like this, having the rules, maxims, and precedents before them by which all disputes respecting landed property are to be settled, have decided that the title given by Georgia, in 1795, is a valuable consideration that binds the obligator of a bond given for that title to pay his bond.

Were it now to be established, sir, that the agents who were Constitutionally authorized to grant out the lands of a State, by interesting themselves in the purchase, have rendered invalid the title, deplorable must be the situation of some States in this Union. I remember a grant of land made by a Legislature of a State, in which the name of every member was intended to be inserted as a grantee, and publicly read. I remember many other grants made, in which the members were concerned to what extent they pleased, yet no fault was found. Whenever it was thought

that the members acted improperly, they were punished by the neglect of their constituents, but no one thought of invalidating the title.

In the case of the Georgia grant in 1795, I believe it was understood before the members were chosen that it was proposed to sell the western lands; the people ought to have entrusted this important concern with honest men. It is, in my opinion, better to suffer the consequence of almost any act of Government, than admit of the least diminution of public faith. Public faith once pledged by the Constitutional authority, has ever been with me sacred as the *sanctum sanctorum* itself. In the twenty-five years I have been in legislative business, I have never given a vote which seemed to me so near to infringe on public faith as the votes I have given lately on the subject of the suppression of the Commissioners of Loans; and I gave those votes merely with a view to have the subject brought up in detail, reserving to myself a right of voting against the bill in case the preservation of the public faith should ultimately require it.

One of the most valuable traits in our Government is, that property is secured by known and established rules in the acquirement and transfer of it; and when it is obtained from Government, the Legislature that gave it has no more right to snatch it back again, than individuals have when they give away or sell their property. Suppose another revolution to have taken place in France by this time, and the new Government was to declare to the world, that the First Consul had sold Louisiana to us too cheap, that there was bribery and corruption in the business, and that they would not consider themselves bound by the bargain, and tell us to take our stock again; that they will either keep Louisiana, or sell it to those that will give more for it; would not we think such conduct a most flagrant breach of faith? Would not the world think so? Would not we be ready to declare that we would defend our purchase to the utmost of our power?

I will take the liberty to mention another case which I think is in point. Some years since, the Legislature of Kentucky put their vacant lands on sale for forty dollars an hundred acres, with long credit for the price; since that time, by other successive acts, the price has been reduced and the time of payment lengthened; these measures have been opposed by a considerable minority; should that minority prevail and become a majority at the next session; should they declare (which I believe they might do with truth) that many members of the former majority were interested in the former proceedings of the Legislature; should they declare that the lands were sold too cheap, and too long time given for the payment of the price; should they collect the papers, and by means of a glass draw fire from the sun, or obtain it from another region more favorable to such a design, and make a bonfire of the records and the evidence of the appropriation of the lands heretofore made; should they declare that they had a right to re-sell it, and that they would make a better sale—thirty thousand of as worthy, honest, deserving people as inhabit this continent would

be ruined. I think, sir, it is very improbable such a thing will take place; however, the principle urged by gentlemen who sustain the resolution, and oppose the passage of the bill, would justify such a measure.

Although I was not a member of the Congress which established the funding system, I was a spectator, and I believed it to be brought about by corruption and the most iniquitous means. I believe men interested in the speculation influenced the measure. I saw men rising from indigence to opulence by the sub-agency they had in that abominable business. I detested the whole transaction as much as man could, but the public faith being once pledged, I never could consent to a breach of it. I know of no remedy for such evils, but what would encourage a revolutionary spirit, not needed in these days—a spirit which would tend to disorganization, to anarchy and confusion. Let the community suffer for allowing themselves to be imposed on by knaves and they will grow careful whom they trust: such are the reflections we make in private concerns.

I do not believe that this House have power to inquire into the motives of the integrity of the Legislature of Georgia, or any other State; their authority is equal to and independent of that of the Legislature of the United States within their own sphere. I do not believe that any judiciary in this country have that power. If I am not mistaken it has been held by members of this House from one of the greatest States in the Union, that the judiciary of the United States have no right to inquire into the Constitutionality of a law passed by Congress; if this be so (which by the way I don't think to be the case) how can they or we inquire beyond the Constitution itself into the motives of individual members of the Legislature of a sovereign and independent State? Notwithstanding my character has been represented differently, I never was a disorganizer.

So long ago as when we were first about taking up arms in defence of American liberty, I hesitated more to question myself and my acquaintance on the subject of our being able to form and establish a Government suited to our wishes and our wants, than to consider the danger of wounds, death, imprisonment, or any other evil that could happen to me. I have ever dreaded anarchy as the deadliest foe to human happiness. In the early struggles of the country which is now the State of Vermont, military operations became necessary, in order to avoid surrendering our rights and property to a neighboring colony; but I would not join that opposition until a Government of our own was consented to, from which has emanated the Constitution under which four gentlemen hold their seats in this House, and two in the other House of Congress.

At the time when anarchy was prevailing in a State bordering on that in which I lived, the contagion reached Vermont; there are many living witnesses of the energy displayed by me to repress it; myself and my neighbors were ready, and at a moment's warning marched and risked our lives for the Government; from my stores were the

militia of the country supplied with provisions, liquor, ammunition, and every necessary; from my pocket were their bills paid. By energy and promptitude Government prevailed; insurrection was nipped in the bud; and we remained quiet, while something like civil war prevailed in our neighboring States for want of that early promptitude and energy.

It is well known to my intimate friends and acquaintance that had I believed opposition to the last Administration had tended to anarchy or disorganization I would have avoided it; as little as I might like a Government administered as ours then was, I would have preferred it, with all that I suffered under it, to anarchy and disorganization. I never shrunk from the claim of a disabled soldier, nor from the honest claim of any public creditor; on this score I have never been behind any member of this House, and I will promise to go every length with the gentlemen from Delaware and Virginia; I think the nation is amply able to pay her debts without plundering or speculating on other people's quarrels. But, sir, it may be said what has all this to do with the present question? I mean by it to show my consistency and my alarm at the revolutionary doctrines held out in the course of the debate on this subject.

It has been said by some gentlemen, who oppose the proposed compromise, that if the title given by Georgia is good for forty millions of acres, why accept it for five? Why not let them have the whole? In answer permit me to say, we are acting for the United States, and we are bound to look to their interest, not that of the claimants; they have judged of what is for their own interest; and if, on account of the difficulties they foresee in contending for their right with the United States, if for peace sake, and perhaps a share of patriotism which induces them to avoid unpleasant controversies with the Government, they are willing to surrender their claim to seven acres for one acre without contention, ought we not to be ready to close a bargain with them? Agents are here, I understand, for the purpose, who are authorized and willing to complete it. After the discussion this subject has had in this House, and a majority of six members have declared themselves in favor of the compromise with a view to favor the United States, not the claimants, and mostly under a conviction that their title is good, can any one suppose that we ever shall have another opportunity to compromise this awfully perplexing business so favorable on the part of the United States as the present? I think not. The claimants, baffled in every attempt at compromise on their part, after being invited to it by the United States, losing all hopes of any kind of compromise, will settle the lands, from which they cannot be driven but by an adjudication of a court of justice, which I believe never can be obtained against them.

Under this impression their price will immediately rise in the market; when we offer another compromise, they will not listen to it; and the United States will lose that immense territory, a small share of which would now redeem the whole.

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The United States cannot be a loser in this transaction; in this safe kind of compromise, it is proposed to give for the peaceable and legal title not more than one-eighth of what they have offensively obtained by the Convention with Georgia to secure the remainder; and for the whole they have not, nor are they bound to pay a single dollar out of any other fund than its own avails, while the present claimants, under the act of 1795, have honestly paid for their purchase more than three millions of dollars.

I hope it will not be thought, from what I have said, that I mean to justify or excuse the conduct of the Georgia Legislature of 1795. I mean no such thing; I detest bribery both in the giver and receiver; but how can a third person be obliged to suspect fraud, when he sees fair authenticated title-papers from a sovereign State? Every man who sees these papers naturally considers the faith of that Government pledged, and no person who is versed in the doctrines lately advanced on this floor, would think of scrupling that faith more than he would that of a well known established bank, in which case, when the paper of the bank was offered to him, his inquiry would be, is the paper counterfeit? not, did you come fairly by it, or did you cheat the agent, the clerk, or the teller of the bank out of it?

I feel myself, Mr. Speaker, justified, from the considerations I have mentioned, perfectly justified in the votes I have given, or shall give, on this subject in all its stages. Yet I must confess it is the anxious desire I have for the growth and prosperity of the Western country, that has roused my activity on the occasion. In the course of a few days, in private conversation, I have heard sentiments expressed to this purport: "Last year, when I wished that country settled in order to serve as a barrier against the encroachments of an enemy, I was willing for the compromise, but now that is not the case, I do not care whether it is settled these hundred years; I shall not vote for the compromise." It seems by this to be intended that that fine country, lying in the most delightful climate on the globe, the soil of which is capable of producing the richest fruits in the greatest abundance, shall remain a desert, while thousands of our fellow-citizens in the Eastern States, living in a state of crowded population, as it were, wrangling for a share of the barren rocks among which they cultivate a little earth, barely enough to gain a subsistence, might, if encouraged to become Western land-holders, quit their snowy mountains, and, by the abundance the Western country, cultivated by their industry, would yield yield them, could not fail of being opulent, and, in a superior degree, promoting the population and adding strength to the nation. Are gentlemen going to be governed by this narrow policy, and preserve this dispute purposely to prevent the growth of the Western country? Do they fear that country will increase too fast in political and commercial importance? Have they taken the alarm, since last year, when the law laying the foundation for this much desired compromise was popular? Do they think if people go

on the lands without title, or a disputed title, they will never be otherwise than poor and trifling? Are gentlemen willing to pursue this dog-in-the-manger policy, and keep the avails of thirty-five millions of acres of those lands out of the Treasury merely to suppress the growth of that envied country? If this is the case, to be sure, they will vote to defeat the compromise.

Some gentlemen, I believe, on a former vote, held back their assent merely because the Commissioners were to have full powers to settle this controversy without recurring again to Congress; but let us consider what these plenipotentiary powers are? They extend no further than to give all the claimants one-eighth of what they bought and paid for; why then should we wish to hear any more of it? Why wish to spend another Winter upon it? The honor, the justice, and unanimity of the nation require the earliest possible finish to this business; the sooner all the disgraceful transactions attending it are buried in oblivion, the better. How can I wish to procrastinate, by withholding plenary powers, when those plenary powers are far short of the terms I have heretofore feared we should have to submit to, in order to accomplish this necessary compromise? One word on the subject of the claimants under the act of 1789. Their bargain not having been consummated by title deeds, I have never been alarmed as to their injuring the title of the United States to the land, and I have not been willing essentially to lessen the pittance allowed by Georgia to be given to those claimants, whose title would operate against that of the United States, lest by that means we should fail of the compromise; but I was always willing to give them, from some other source, whatever in equity should appear to be due them from the United States. However, I have been told that the claimants of 1795, full of the spirit of compromise, are willing that they should come in with them for that share the equity of their claim shall, in the view of the Commissioners, under every consideration, entitle them to; and I am willing, in this way, they shall be included in the bill; they are, in my opinion, included in it, and I do hope the resolutions will be amended and decided on, and that the bill will be carried through.

Mr. ELLIOT.—I am extremely happy, sir, that the task which I had assigned myself, of replying to the speeches of the gentlemen from Virginia and Delaware, has been anticipated by the able, and I will take the liberty to say, unanswerable speech of the gentleman from Kentucky. If the destinies of the American people are to be governed by the counsels of an individual; if the system of an individual is to be adopted; give me not the system of the gentleman from Delaware, or that of either of the gentlemen from Virginia, but that of the gentleman from Kentucky. He has displayed an equal superiority in argument and in correctness of principle.

In delineating our views of the tendencies of measures, it is frequently difficult to avoid the imputation of directly impeaching motives. Once for all, I declare that I shall never accuse mem-



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bers of this House of improper motives. Although I may think the doctrines advanced by the supporters of the resolutions extremely pernicious, invasive of the natural political order of society, and subversive not less of the State sovereignties than of social order, yet I believe those gentlemen to be as honest as myself. And I was once as enthusiastic as they are now. Personal allusions, however, I shall never suffer to pass unnoticed. An allusion is made to the fable of the viper who stung his benefactor. I hope the people, to whom the appeal is now made, and whose indignation and detestation are invoked upon those who dare to oppose the resolutions, will never have reason to accuse those young men whom they have elevated to influence and distinction, of laboring, from whatever motives, to infuse a poisonous sting, never to be eradicated, in the very vitals of the Constitution. If the gentlemen mean to insinuate that I ought to consider myself as standing on inferior ground to themselves, I will tell them that, whatever degree of popularity I may possess at this moment, I shall always claim an equality in point of integrity. And however eminent may be the talents of particular members, they can have no right themselves to claim a superiority, in that respect, over their less favored brethren.

The question was then taken by yeas and nays on the postponement, until the first Monday of December, of the following resolution:

*Resolved*, That the Legislature of the State of Georgia were, at no time, invested with the power of alienating the right of soil possessed by the good people of that State, in and to the vacant territory of the same, but in a rightful manner, and for the public good:—

And passed in the negative—yeas 51, nays 52, as follows:

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, Phanuel Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, David Hough, Benjamin Huger, Nehemiah Knight, Henry W. Livingston, Thos. Lowndes, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Thomas Plater, Erastus Root, Tompson J. Skinner, John Smilie, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

NAYS—Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, Matthew Clay, Frederick Conrad, Samuel W. Dana, John Dawson, John B. Earle, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, William Kennedy, Michael Leib, Joseph Lewis, jun., Matthew Lyon, Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, An-

thony New, Thomas Newton, jr., Gideon Olin, Beriah Palmer, John Patterson, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, James Sloan, John Smith of Virginia, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

So much of the said original motion as is contained in the second clause thereof, being again read, in the words following, to wit:

“That, when the Governors of any people shall have betrayed the confidence reposed in them, and shall have exercised that authority with which they have been clothed for the general welfare, to promote their own private ends, under the basest motives, and to the public detriment, it is the inalienable right of a people, so circumstanced, to revoke the authority thus abused, to resume the rights thus attempted to be bartered, and to abrogate the act thus endeavoring to betray them:—”

The question was taken that the House do agree to the motion for postponement of the said second clause of the original motion; and resolved in the affirmative—yeas 52, nays 50, as follows:

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, Phanuel Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, David Hough, Benjamin Huger, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, Matthew Lyon, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Thomas Plater, Erastus Root, Tompson J. Skinner, John Smilie, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

NAYS—Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, Matthew Clay, Frederick Conrad, Samuel W. Dana, John Dawson, John B. Earle, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, William Kennedy, Michael Leib, Joseph Lewis, junior, Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Anthony New, Thomas Newton, junior, Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, James Sloan, John Smith of Virginia, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

So much of the said original motion as is contained in the third clause thereof, being twice read, in the words following, to wit:

“That it is in evidence to this House, that the act of the Legislature of Georgia, passed on the seventh of

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January, 1795, entitled 'An act for appropriating a part of the unlocated territory of this State, for the payment of the State troops, and for other purposes,' was passed by persons under the influence of gross and palpable corruption practised by the grantees of the lands attempted to be alienated by the aforesaid act, tending to enrich and aggrandize, to a degree almost incalculable, a few individuals, and ruinous to the public interest."

The question was taken that the House do agree to the motion for postponement of the said third clause of the original motion; and resolved in the affirmative—yeas 54, nays 49, as follows:

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, Phaniel Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, Wm. Helms, David Hough, Benjamin Huger, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, Matthew Lyon, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Thomas Plater, Erastus Root, Tompson J. Skinner, John Smilie, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

NAYS—Isaac Anderson, David Bard, George M. Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, Matthew Clay, Frederick Conrad, Samuel W. Dana, John Dawson, John B. Earle, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, William Kennedy, Michael Leib, Joseph Lewis, jun., Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Anthony New, Thomas Newton, junior, Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, James Sloan, John Smith of Virginia, Henry Southard, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

So much of the said original motion as is contained in the fourth, fifth, sixth, and seventh clauses thereof, being again read, in the words following, to wit:

"That the good people of Georgia, impressed with general indignation at this act of atrocious perfidy and of unparalleled corruption, with a promptitude of decision highly honorable to their character, did, by the act of a subsequent Legislature, passed on the thirteenth of February, 1796, under circumstances of peculiar solemnity, and finally sanctioned by the people, who have subsequently ingrafted it on their constitution, declare the preceding act, and the grants made under it, in themselves null and void; that the said act should be expunged from the records of the State, and be publicly burnt, which was accordingly done; provision at the same time being made for restoring the pretended purchase-money to the grantees, by whom, or by persons claiming under them, the greater part of the said purchase-money has been withdrawn from the Treasury of Georgia."

"That a subsequent Legislature of an individual State has an undoubted right to repeal any act of a preceding Legislature; provided such repeal be not forbidden by the constitution of such State, or of the United States."

"That the aforesaid act of the State of Georgia, passed on the thirteenth of February, 1796, was forbidden neither by the constitution of that State, nor by that of the United States."

"That the claims of persons derived under the aforesaid act of the seventh of January, 1795, are recognised neither by any compact between the United States and the State of Georgia, nor any act of the Federal Government."

The question was taken that the House do agree to the motion for postponement of the said fourth, fifth, sixth, and seventh clauses of the original motion; and resolved in the affirmative—yeas 53, nays 50, as follows:

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, Phaniel Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, David Hough, Benjamin Huger, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, Matthew Lyon, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Thomas Plater, Erastus Root, Tompson J. Skinner, John Smilie, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

YEAS—Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, John Clopton, Frederick Conrad, John B. Earle, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, William Kennedy, Michael Leib, Joseph Lewis, jun., Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smith of Virginia, Henry Southard, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

And then the residue of the said original motion, contained in the eighth and last clause thereof, being twice read, in the following words, to wit:

"Therefore, resolved, That no part of the five millions of acres reserved for satisfying and quieting claims to lands ceded by the State of Georgia to the United States, and appropriated by the act of Congress passed at their last session, shall be appropriated to quiet or compensate any claims derived under any act, or pretended act of the State of Georgia, passed, or alleged to be passed, during the year 1795."

The question was taken that the House do

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agree to the motion for postponement of the said residue of the original motion; and resolved in the affirmative—yeas 54, nays 51, as follows:

YEAS—Willis Alston, jun., Simeon Baldwin, Silas Betton, Phaniel Bishop, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, Andrew Gregg, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, David Hough, Benjamin Huger, Nehemiah Knight, Henry W. Livingston, Thomas Lowndes, Matthew Lyon, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Joseph H. Nicholson, Thomas Plater, Erastus Root, Tompson J. Skinner, John Smilie, John Cotton Smith, Joseph Stanton, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Var-num, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, and Marmaduke Williams.

NAYS—Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, John B. Earle, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, William Kennedy, Michael Leib, Joseph Lewis, jun., Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Anthony New, Thomas Newton, jun., Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Cesar A. Rodney, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smith of Virginia, Henry Southard, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

#### MONDAY, March 12.

The Journal of the proceedings of Saturday last being read by the Clerk, a member in his place suggested an error therein, by misstating the decision of the House on the report of the Committee of Claims on the petition of William Eaton: Whereupon, the entry of the proceeding on the said report being read, in the words following, to wit:

“The House, according to the order of the day, proceeded to consider the report of the Committee of Claims, of the twenty-ninth ultimo, on the petition of William Eaton; and the said report being twice read at the Clerk’s table, in the words following, to wit:

“That, so far as an examination of this case involves a consideration of the petitioner’s Consular Agency, your committee feel a pleasure in expressing their decided approbation of his official conduct. Nor do they hesitate in communicating to the House their impression that the petitioner has a well founded claim upon the Government for his sacrifices and expenditures in the public service. But as much of his demand is under a course of examination at the Treasury Department, and as it is confidently believed the Executive is both enabled and disposed to render him complete justice, your committee consider the present application as premature, and that the Legislative inter-

ference ought to be withheld until a fair opportunity shall be afforded for the adjustment of the claim by the proper officers.

‘Your committee are therefore of opinion that the petitioner have leave to withdraw his petition, and the papers accompanying the same.’

“The question was taken that the House do concur with the Committee of Claims in their agreement to the said report,

“And resolved in the affirmative.”

A motion was made and seconded to amend the said entry, by striking out the following words:

“That, so far as an examination of this case involves a consideration of the petitioner’s Consular Agency, your committee feel a pleasure in expressing their decided approbation of his official conduct. Nor do they hesitate in communicating to the House their impression that the petitioner has a well founded claim upon the Government for his sacrifices and expenditures in the public service. But as much of his demand is under a course of examination at the Treasury Department, and as it is confidently believed the Executive is both enabled and disposed to render him complete justice, your committee consider the present application as premature, and that Legislative interference ought to be withheld until a fair opportunity shall be afforded for the adjustment of the claim by the proper officers.”

And, also, by stating that the House do agree to so much of the said report as is contained in the last clause thereof, in the words following, to wit:

“Your committee are therefore of opinion that the petitioner have leave to withdraw his petition, and the papers accompanying the same.”

And on the question to amend, it was unanimously resolved in the affirmative, every member present answering in the affirmative, to wit:

Willis Alston, junior, Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, Phaniel Bishop, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, George W. Campbell, John Campbell, Levi Casey, Clifton Claggett, Joseph Clay, Matthew Clay, John Clopton, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Gaylord Griswold, Roger Griswold, Samuel Hammond, John A. Hanna, William Helms, Benjamin Huger, John G. Jackson, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Thomas Plater, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Cesar A. Rodney, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Cotton Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Var-num, Daniel C. Verplanck, Samuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

*Resolved, unanimously, That the Joint Com-*

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mittee on Enrolled Bills be instructed to wait on the President of the United States, and lay before him the engrossed bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," with the several amendments, as the same was finally passed by both Houses of Congress, and to state the variance between the said engrossed bill and the enrolment thereof, as approved by the President; and to request that he will cause the said enrolled bill to be returned to this House, in which it originated, for the purpose of rendering the said bill conformable with the engrossed bill and the amendments thereto, as passed by the two Houses of Congress.

*Ordered*, That the Clerk of this House do carry the said resolution to the Senate, and desire their concurrence.

On motion, it was

*Resolved*, That a committee be appointed to prepare and report a bill to authorize the marshal of any district within the United States to adjourn any special or adjourned district court to the next stated term of said court, whenever the judge of the district court shall be unable to attend such adjourned or special court, and shall direct the marshal, in writing, to adjourn the same.

*Ordered*, That Mr. R. GRISWOLD, Mr. NICHOLSON, and Mr. G. W. CAMPBELL, be appointed a committee pursuant to the said resolution.

*Ordered*, That this House do now attend in the Senate Chamber to hear the Senate, in their capacity of a Court of Impeachments, pronounce judgment on the articles of impeachment exhibited against John Pickering, Judge of the District Court of the United States for the district of New Hampshire, agreeably to the notification contained in a message from the Senate, by their Secretary, on Saturday last.

The SPEAKER, attended by the members, accordingly withdrew to the Senate Chamber, for the purpose expressed in the foregoing order; and, being returned,

Mr. HUGER, from the committee to whom were referred, on the seventeenth ultimo, and the eighth instant, the memorials of sundry merchants of the city and State of New York, and of sundry merchants and ship owners of the city of Hudson, in the said State of New York, made a report thereon; which was read, and ordered to lie on the table.

The House proceeded to reconsider their third amendment, disagreed to by the Senate, to add a new section at the end of the bill sent from the Senate, entitled "An act to erect a light-house on the south end of St. Simon's island, in the State of Georgia, and for the placing a buoy or buoys on or near St. Simon's bar;" as, also, to consider the amendment proposed by the Senate to the fourth amendment of this House to the said bill: Whereupon,

*Resolved*, That this House doth recede from their said third amendment.

*Resolved*, That this House doth agree to the amendment proposed by the Senate to the fourth amendment of this House to the said bill.

#### GEORGIA CLAIMS.

The House proceeded to the further consideration of the first clause of a motion of the twentieth ultimo, respecting "claimants to lands of the United States south of the State of Tennessee, under an act of the Legislature of the State of Georgia, passed in the year 1795;" and the said first clause of the motion being again read, in the words following, to wit:

"*Resolved*, That the Legislature of the State of Georgia were at no time invested with the power of alienating the right of soil possessed by the good people of that State in and to the vacant territory of the same, but in a rightful manner, and for the public good."

A motion was made, and the question being put that the further consideration thereof be postponed until the first Monday in November next, it was resolved in the affirmative.

The House then proceeded to consider the bill providing for the settlement of sundry claims to public lands lying south of Tennessee, to which the Committee of the whole House, to whom it was referred, reported an amendment on the seventh instant: Whereupon, a motion was made, and the question being put that the further consideration of the said bill be postponed until the first Monday in November next, it was resolved in the affirmative—yeas 59, nays 49, as follows:

YEAS—Isaac Anderson, John Archer, Bavid Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, John B. Earle, William Findley, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, and Marmaduke Williams.

NAYS—Willis Alston, junior, Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Jacob Crowninshield, John Davenport, John Dawson, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, William Eustis, John Fowler, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, Benjamin Huger, John G. Jackson, Joseph Lewis, junior, Henry W. Livingston, Thomas Lowndes, William McCreery, Nahum Mitchell, Samuel L. Mitchell, Jeremiah Morrow, Anthony New, John Patterson, Thomas Plater, Samuel D. Purviance, Cæsar A. Rodney, Tompson J. Skinner, John Cotton Smith, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Killian K. Van Rensselaer, Joseph B. Varnum, Daniel C. Verplanck, Peleg Wadsworth, Lemuel Williams, Richard Winn, and Joseph Winston.

And so said bill was postponed until the first Monday in November next.

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## OFFICIAL CONDUCT OF JUDGE CHASE.

The House resolved itself into a Committee of the Whole on the report of the committee appointed "to inquire into the official conduct of Samuel Chase, one of the associate Justices of the Supreme Court of the United States, and of Richard Peters, district judge of the district of Pennsylvania," made the sixth instant. The report is as follows:

That in consequence of the evidence collected by them, in virtue of the powers with which they have been invested by the House, and which is hereunto subjoined, they are of opinion,

1. That Samuel Chase, Esq., one of the associates justices of the Supreme Court of the United States, be impeached of high crimes and misdemeanors.

2. That Richard Peters, district judge of the district of Pennsylvania, has not so acted in his judiciary capacity as to require the interposition of the Constitutional powers of this House."

On reading the first resolution, for the impeachment of Samuel Chase—

Mr. ELLIOT said: Mr. Chairman, I have undertaken this day, in a manner neither copious nor tedious, to examine the relative rights of judges and of private citizens. The task is an important one, and I have only to regret that it very far transcends my feeble powers.

In the immense volume of the history of the human mind, there are no sections more interesting than those which develop the latent springs of human action, and record the effects of the spirit of party upon the wisest and the best of men. It is impossible, however, to judge of causes otherwise than by consequences, of motives otherwise than by actions. On an occasion like the present, it is our duty to discard the pride of party and the pride of power. But I have not risen to deliver a moral or political lecture to the Committee; I have risen for a very different purpose. As my opinions upon this subject are probably peculiar to myself, I have opened the discussion with a view to preclude myself from taking any part in the extensive debates which the subject can scarcely fail of producing hereafter. My views shall be succinct, and I will not wander, even for a moment, from the real question.

The resolution under consideration contemplates the impeachment of Samuel Chase, one of the Judges of the Supreme Court of the United States, upon a charge of high crimes and misdemeanors. Although I doubt whether Judge Chase has been guilty of any act which can with propriety be called a high crime, yet he appears to me to have committed one or two misdemeanors. I shall, therefore, under my present impressions, be compelled to vote in favor of the resolution; but my mind is open to conviction, and I hope to be enlightened, if I have unfortunately fallen into error. To misdemeanor is to behave ill; a misdemeanor is an act of ill behaviour; and the Constitution limits the duration of the office of a judge to the period of his good behaviour. I am not of opinion that every act which, strictly speaking, may be considered as misconduct, ought to subject a judge to impeachment; the misconduct must possess some degree of criminality. In England, it has

long been the practice, and the practice has grown into law, to give great latitude to the discretion of judges; to presume, unless the contrary appears by incontestable evidence, that their errors are the errors of judgment, and not to punish them for any error of judgment whatever. It accords with my disposition to adopt, in their full extent, those equitable maxims of the British code. I have no wish to adopt the principle, *de uno crimine disce omnes*, or to embrace the idea of *novum crimen, et ante hanc diem inauditum*. From the proof of one act of misconduct, I will not presume the existence of others; nor will I create new crimes, unknown till this moment.

Except in relation to the trial of James Thompson Callender, I have discovered no ground of impeachment against Mr. Chase; and I will concisely examine the voluminous testimony before us, from which ingenuity may extract a variety of other accusations. The first charge will be, that John Fries, when arraigned for treason, was deprived of a Constitutional trial, by the arbitrary conduct of the court. Candor, however, after an impartial review of all the circumstances of the case, will make a different decision. It appears, by the testimony of Mr. Lewis;

"That Judge Chase, at the moment when Fries was placed at the bar, handed or threw down to Mr. Caldwell, the clerk of the court, one or more papers, and at the same time delivered himself, in substance, as follows: That he understood, or had been informed, that on the former trial or trials, there had been great waste of time, by counsel making long speeches to the jury on the law as well as on the facts, and on matters which had nothing to do with the business before the court, and he particularly noticed, in strong and pointed terms of disapprobation, their having read, and I think having been permitted to read, certain parts of certain statutes of the United States, relating to crimes less than treason, in order to show that the prisoner's case came within them, and which he said, he, or the court, (I do not recollect which,) would not suffer to be read again, as they had nothing to do with the question. He added, that we are judges of the law and understand it, or we are not fit to sit here; that cases at the common law, or under the statute law of England previous to the English revolution, had nothing to do with the question, and that they would not suffer them to be read; that they had made up their mind on the law, and had reduced it to writing, and that the counsel might conduct themselves accordingly, (or conformably to it,) he or they had ordered copies of it to be made, and one of them to be delivered to the counsel in support of the prosecution, and another to the prisoner's counsel, and that as soon as the case was opened or gone through (I am not sure which was the expression) on the part of the prosecution, he or they (I am not certain which) should order one to be delivered to the jury. He also added that, if we had any fault to find with the opinion of the court, or had anything to say on the law, to show that they were wrong or had mistaken it, we must address ourselves to the court, and not to the jury."

This is the evidence which I consider as material to the first point in question. Although the jury are to decide both the law and the fact in criminal cases, I have never heard it doubted that the court have a right to deliver their opinion upon

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the law, at any stage of the trial. But it is said that by this oppressive conduct of the court the prisoner was deprived of the benefit of counsel. In order to form a correct opinion upon this point, it is necessary to consider the conduct of the court in the first instance, that of the counsel in consequence, and that of the court which followed. That I may save the time of the Committee, I will endeavor to show from memory the substance of the volume of evidence on the table, although I have had very little time to prepare myself for this discussion. Of course the testimony of Mr. Lewis, and Mr. Dallas, and Mr. Rawle, must be in some measure blended. It appears that the learned counsel considered the conduct of the court as unprecedented, injurious to the prisoner, and invasive of the rights of the bar; and they declined to proceed in the defence. The trial, however, was not precipitated. In the evening Mr. Chase became sensible that he had committed an error. The next day he told the counsel: "You are not bound by the opinion delivered yesterday, but may contest it on both sides." "You are at liberty to proceed as fully as you think proper; address the jury, and lay down the law as you think proper." "Having thus explained the meaning of the court, you will stand acquitted or condemned to your own consciences, as you think proper to act. Do as you please." Judge Peters asked, if an error had been committed would not the counsel suffer it to be corrected? I ask so too. Why did they not suffer it to be corrected? Could a court ever descend deeper into the valley of humiliation? Why deny to judges, the privilege so dear and so necessary to all men, that of correcting their mistakes? But the counsel were of opinion that there had been a prejudication of the cause. No such thing. When the court thus retraced the ground they had first trodden, I am clear that the general impression upon the minds of the jurors, resulting from the conduct of the court, would have been favorable to the prisoner rather than otherwise. We find, in the testimony of Mr. Dallas, the real reason for the strange conduct of the counsel: "Mr. Lewis and myself were greatly influenced in the conduct which we pursued, by our opinion of the means most likely to save the life of Fries, under all the circumstances of his case." They anticipated his pardon by the President, if condemned without counsel. I have formed a decided opinion that Fries was not, by any misconduct of the court, deprived of the Constitutional privilege of being heard by counsel, and of course that there exists no ground for impeachment, as it respects that trial.

I presume the Committee of Inquiry were of opinion that the conduct of the judge in the case of Cooper, was improper. Mr. Cooper was indicted for a libel on the President; he offered to give the truth in evidence, and applied for a subpoena for the President himself as a witness, which was very properly refused. Suppose a subpoena had issued. The President of the United States would have commanded the marshal to summon the President of the United States into court. He

disobeys the summons. The President then commands the marshal to attach the President. Is not this absurd? Not that I think the President ought to be above attending any court as a witness, in criminal or civil cases. But it is presumed that his whole time is devoted to the important concerns of the nation, concerns infinitely more important than those of any individuals. If he cannot be prevailed upon, or cannot make it convenient, to appear in court, he certainly cannot be compelled to do it. But for what purpose was the testimony of the President wanted? Contrary to every principle of law and to the dictates of common sense, to criminate himself! Is not this absurdity rendered still more absurd?

By the testimony of Mr. Mason and Mr. Smith, it appears that Judge Chase delivered a charge to a grand jury at Baltimore, "in which there was much political matter. He spoke of the act of Congress, entitled 'An act to repeal certain acts respecting the organization of certain courts of the United States, and for other purposes,' as alarming and dangerous in its tendencies, as it went to destroy the independence of the Judiciary. He inveighed in very strong terms against the amendment made by the Legislature of Maryland to their State constitution," &c. Next to the holy altars of religion, I consider the temple of justice as the most improper place from whence to dispense the dogmas of party, or the theories of political disquisition. I have felt much indignation at such conduct heretofore, and have always considered it as highly improper, but not as criminal. When I was one of that class of citizens who composed the minority on political questions generally, I believed that I had a right to examine and censure the measures of Government; and I believe that judges possess the same political rights as private citizens, although the bench may be a very improper situation in which to exercise them. This charge cannot constitute any good ground for an impeachment.

It is to me a subject of no small regret, that the deposition of Jonathan Snowden has found a place in this voluminous collection of evidence. Mr. Snowden has undoubtedly testified the truth, but I object to the nature of the testimony. To take any notice of it would be inconsistent with the dignity of the grand inquest of the nation. Judge Chase is stated to have said to Judge Washington: "To tell you the truth, if I had known then as much as I do now, I should not have fined him (Callender) so high." From the testimony of gentlemen of high respectability, who were present on that occasion, it appears that the conversation was of a sportive nature, and in common charity we should have presumed that it was so. From an incautious expression in the moment of convivial amusement, shall we deduce the conclusion that the judge was governed by corrupt motives in the conviction of Callender?

In the trial of Callender, indeed, I believe the judge to have been guilty of such misconduct as ought to render him impeachable. I have not formed this opinion without experiencing many

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doubts and difficulties, which I shall be happy to have completely removed; and I shall be equally happy to be convinced that I have done wrong in concluding to vote for the impeachment. The Constitution secures to persons accused of crimes, the right of compulsory process to procure witnesses, and trial by jury. From the testimony of Mr. Hay and Mr. Nicholas, it appears that Callender was deprived of those great Constitutional privileges. However atrocious the libel or the libeller, there should have been a fair trial. A motion was made for a continuance, upon the facts stated in an affidavit which is now before us. I have examined it, and it appears to me to have been sufficient to sustain the motion; and we are told that the motion was urged on Constitutional grounds. Mr. Hay says:

"The witnesses were named, the evidence expected from each distinctly stated, and the documents wanted clearly specified. When this affidavit was presented to the court, it was urged by the counsel that the Constitution secured to the prisoner a right to process to enforce the attendance of his witnesses. He had also a right, under the Constitution, to the assistance of counsel in his defence; but if he were tried when his witnesses were absent, and his counsel not prepared for his defence, without any default in him or them, these important provisions would be useless. The motion was instantly overruled. The Attorney for the United States was told that it was unnecessary to reply. Judge Chase said that it would be a waste of time; that there was no reason for putting off the trial; that as the prisoner did not swear that he could prove all the facts recited in the indictment, his having testimony as to part of them was immaterial. He must prove all, continued Judge Chase, and it must appear that he can prove all, or the trial will not be postponed."

"Mr. Nicholas says—We renewed the motion, and it was urged with great earnestness, under a conviction that a fair trial could not be had without Callender's witnesses, and that as many of them lived at the distance of several hundred miles, and the prosecution had originated only a few days before, it was impossible that Callender could have procured their attendance. We thought also, that he had a Constitutional right to obtain compulsory process to compel the attendance of his witnesses. The court refused to grant a continuance, and Judge Chase declared as the reason why the continuance was refused, that Callender had not stated in his affidavit that he could prove the truth of all the charges stated in the indictment; that it was necessary that he should prove the truth of all the charges to obtain an acquittal, and that as the witnesses who were absent were to give evidence as to part of the charges only, their absence afforded no good reason for a continuance."

Such are the facts in evidence. I think it cannot be denied that Judge Chase denied to Callender a Constitutional privilege; and I am equally clear, if I may be permitted to say so, that the reasons which he gave for the denial were repugnant to the most plain and obvious principles of law. By the law upon which Callender was indicted, he had the right to give the truth in evidence, and the jury had the power to determine both the law and the fact. Judge Chase declared that he must prove all the charges, or be convicted. Was not this unreasonable? I will take it

upon me to repeat that this decision was contrary to law and reason. Callender had the right to select one of the charges, or any number he pleased, prove them true, and contend that the remaining charges contained no libellous matter; and if the jury had been of that opinion, they must have acquitted him. Another Constitutional right, that of trial by an impartial jury, was also denied:

"Mr. Nicholas.—We mean to challenge the array and take every advantage which the laws of the country give us. In support of this doctrine I will read an extract from "Trials per Pais." [Here he read the passage.] I believe there is testimony in court to prove that one of the jurors returned by the marshal has expressed sentiments hostile to the traverser. It is like a case stated in the books, where a verdict was set aside because a jurymen had previously said that the man accused ought to be hanged; and in that case, on the second trial, every jurymen was called on to say whether he had formed an opinion on the subject or not."

I am willing to admit that the law relied on by Mr. Nicholas is of modern date, and by some considered as not perfectly established in criminal cases, probably for the reason mentioned by Judge Chase, that the whole country may have heard of the crime and the criminal, and formed an opinion. It is clear from the books that it is settled in civil cases, and it is certainly in itself very reasonable.

"The court having refused to continue the cause, the jury was called, and one of the counsel for the defendant stated to the court that, he wished to ask the juror who was called to the book, before he was sworn, whether he had formed an opinion on the work, entitled 'The Prospect Before Us,' from which the charges in the indictment were extracted? Judge Chase said no such question should be asked; that the only question which would be allowed, was, whether the juror had formed and delivered an opinion on the charges contained in the indictment? The juror answered that he had never seen the indictment nor heard it read. The judge directed that he should be sworn in chief. The counsel then asked that the indictment should be read to the juror, which might enable him to decide whether he had formed and delivered an opinion on the charges in the indictment. Judge Chase said the court would not permit this."

Mr. Robertson testifies that the Judge said, "He has answered that he never saw the indictment nor heard it read, and if he has neither read nor heard the charges, I am sure he cannot have formed or delivered an opinion on the subject."

Here I cannot but remark, that this conclusion of the Judge was extremely illogical. Because he refused to let the juror know what the charge was, he concluded that the juror could not have formed an opinion. Mr. Robertson afterwards says:

"The eighth juror answered, when the previous question was put to him, that though he had never read or heard the charges in the indictment, and knew not what the traverser had published, yet he had formed an unequivocal opinion that such a book as the 'Prospect Before Us' was, came within the sedition law. But no objection was made to him, and he was sworn like the rest."

It may be asked why no objection was made?



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The answer is ready; Judge Chase had prejudged that the objection was not a good one: but I think differently, and believe that it was his duty to set aside the eighth juror. I cannot, and will not believe, with this evidence staring me in the face, that Callender was tried by an impartial jury of his country; the eighth juror at least, must have possessed a mind far from impartial towards the author of *The Prospect*. It is proved that the Judge denied to the prisoner the great Constitutional privileges of compulsory process for witnesses, and trial by an impartial jury; but we shall be told that these were errors in judgment. I do not suspect him of corruption, but I believe him to be impeachable for conduct of this description, whether it be the consequence of passion, prepossession, or party-spirit. To allow judges to disregard the Constitution, and shelter themselves under the doctrine that they are not punishable for errors of judgment, would be giving them a dangerous latitude indeed. It is true that Judge Chase, in the latter part of the trial, appears to have been cool and candid.

I am a friend to the Constitutional independence of the Judiciary, but opposed to giving that department an oppressive and overwhelming power, destructive to the liberties of the people. I regret extremely that it has become our duty to accuse a man so eminent for talents and learning, particularly for legal learning, of high crimes and misdemeanors. I wish I could ascribe his conduct to the passion of the moment, or to those ordinary prejudices which invariably constitute a part of the infirmities of human nature. I consider myself as one of a numerous band of sentinels posted around the temple of justice. It is our duty to guard it with more than vestal vigilance, and to prepare punishment for those who appear to us to have presumed, with unhallowed hands, to minister at its sacred altars!

The question was then taken on agreeing to the first resolution, and carried—yeas 74.

The Committee then agreed, without a division, to the second resolution relating to Richard Peters.

The Committee rose, and reported their agreement to the report of the select committee.

The House immediately took the report into consideration.

The first resolution respecting Mr. Chase having been read,

Mr. R. GRISWOLD observed that in the select committee appointed to inquire into the official conduct of Samuel Chase there had been no discussion, and no points settled, except those contained in the resolution. No part of the documents contained in the report had been taken up and discussed. I would, said Mr. G., myself have undertaken on this occasion to enter minutely into the testimony, were I not of opinion that the sentiments of the House are already formed. I have examined the depositions critically, and I am ready to say that they constitute no grounds for impeachment. But I have been lamentably convinced, by a mournful experience, that nothing which can be said in the case of impeachments will have any effect on this House. I shall therefore, say nothing

on this resolution, at this time; but shall content myself with calling for the yeas and nays.

Mr. J. RANDOLPH.—Like the gentleman from Connecticut, it is no part of my intention to enter into a consideration of the report of the committee appointed to inquire into the official conduct of Mr. Chase and Mr. Peters. On this occasion, as on another, in which I had the honor of being one of those to whom was confided the management of an impeachment, I am willing to rest the decision which I shall give on the testimony before the House. But I think the observations which have fallen from the gentleman from Connecticut require, in justice to himself (for he was a member of the committee appointed on this occasion,) and as an act of justice to that committee, some remarks in reply. For what purpose he has made these observations I shall not undertake to determine. From them it would appear as if a discussion had been particularly invited. The committee consisted of seven members. On the motion of different members, sometimes in consequence of personal application, at other times by letters, addressed to the committee, testimony was ordered to be taken. A day was then appointed for the meeting of the committee; they did meet. At the time appointed for the meeting some gentlemen of the committee were engaged in the character of managers of an impeachment before the Senate. The gentleman from Connecticut, and a gentleman from South Carolina, (Mr. HUGER,) also a member of the committee, waited in the library until the other members thus engaged should be in readiness. As soon as they were ready to meet, a message was sent to the library for the two gentlemen. Before this it had been intimated to the managers that the House wanted a quorum. We, therefore, dispatched a message into the House for the two gentlemen. We received no answer. The committee decided the conduct of Mr. Chase impeachable, in relation to the trial of Fries, and the conduct of Mr. Peters not impeachable. In consequence of this decision, five members being present, the Chairman was directed to draught the report. The report, however, not being presented, owing to the adjournment of the House, and the committee being unwilling to submit it before it had been considered by all the members of the committee, it was again submitted to the committee, who were summoned, for that purpose, the next morning; when it was reconsidered, and agreed to in the presence of the members previously absent.

Mr. R. concluded by expressing his regret at having to trouble the House with so dry a detail; and said he had made it to show, that if there had been no discussion, it was because there was an indisposition on either side to provoke it.

Mr. HUGER.—It was my wish and determination to have avoided saying anything on the present question, and to have contented myself with giving a silent vote—nor should I now have risen but for the allusions, which have been made by the gentlemen from Connecticut and from Virginia, to what took place in the Committee of Investigation. The statements given by both these gentle-

men are, as far as they go, correct; but I must beg leave to add one or two additional observations on the subject.

The committee had been duly summoned to meet on the morning of the day preceding that on which the report now under consideration was presented to this House. Both the members from Connecticut and myself accordingly attended at, or about the usual hour of attendance; but on going to the room, in which we had always met, we found it occupied by the committee who had been appointed to impeach Judge Pickering. Most, I believe indeed, all the gentlemen, except the member from Connecticut and myself, who composed the Committee of Investigation, were likewise members of the committee, and as they had already met on other business, we of course retired. On my return to the House, I met the honorable Chairman at the door, who expressed a wish that our committee should forthwith meet; but on my observing, that the most of the members of it were on the Committee of Impeachment in the case of Judge Pickering, which was then assembled, he proceeded to join them; intimating, if I did not mistake him, as he left me, that he would send me word should our committee meet. I received no message, however, nor heard anything on the subject until a few minutes before the House adjourned, when to my astonishment the gentleman from Connecticut informed me that he had been told the committee had met during our absence, and come to the determination of reporting to the House a resolution recommending the impeachment of Judge Chase.

The gentleman from Virginia, however, has informed the House that before the committee proceeded to business, one or two messengers had been sent to summon both my friend from Connecticut and myself, and he had before given me the same information in private. And most certainly, sir, I have not the smallest doubt but that this was done; for the assertion of any fact, made by the gentleman from Virginia, will ever receive from me the most ready and implicit belief. It nevertheless, so happened, that neither the member from Connecticut nor myself received the summons, or attended the committee, in which it was determined, during our absence, that a report should be drawn up and made to the House, recommending the impeachment of Judge Chase. This circumstance did, I confess, surprise me in the first instance, and until the matter was explained to me. I still regret it; for we had never had any previous discussion in the committee, on the merits of the various charges exhibited against the judge, and I certainly did expect, that each particular case would have been thoroughly sifted and canvassed in the select committee, and a separate and distinct vote taken on each of them before any report was made. Under this impression I had intended to have objected, had I been present, to the committee's coming to any final decision until we had received the deposition of Mr. Robertson from Petersburg; and I had also (as I observed to the committee on the following morning) intended to have requested, that the

depositions of Mr. Edmond Randolph, late Attorney General of the United States, and some other gentlemen, (whom I had just learned were present at the trial of Callender,) might be taken; for as the only depositions before us in this case were solely those of the parties immediately and individually concerned, and who were not merely the political opponents of Judge Chase, but personally interested; as the propriety of their own conduct in the trial was involved in the question at issue between them and the judge. I did not wish to make up my mind, or give a final vote on a case, in which there was evidently no other than perfectly *ex parte* evidence before us. The committee, however, having, as has been stated, met during our absence, and decided in favor of an impeachment, I was virtually precluded from making the proposition I had intended.

It is indeed true, Mr. Speaker, and the gentleman from Virginia is perfectly correct in stating, "that the whole of the committee met the next day, and the report, as it now stands, was submitted to our final decision, when every individual member was present." He is equally correct in the observation, that the report was open to the objections, which might be offered from any quarter. But, after five out of seven members had already on the preceding day decided in favor of the principle it contained, I certainly, sir, had not the vanity to suppose that anything I could say would effect a change of opinion; and I conceived, that after what had passed, it would be regarded as mere cavil on my part, and only done from a wish to embarrass and create unnecessary delay, to propose, when the question of impeachment was already acted and decided upon, that we should wait for further testimony. I therefore acquiesced, and (after having expressed, as above stated, what I should have wished to have been done, and had intended to propose, had I been present in the committee the preceding day) I deemed it my duty, (as believing the evidence in question before us, to be entirely *ex parte*) to give in the select committee, as I shall again do on the present occasion, my decided negative to that part of the report, which includes the resolution for impeaching Judge Chase.

The question was then taken, by yeas and nays, on concurring in the report of the committee, agreeing to the first resolution, and carried—yeas 73, nays 32, as follows:

YEAS—Willis Alston, Isaac Anderson, John Archer, David Bard, George M. Bedinger, William Blackledge, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Joseph Bryan, William Butler, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, Peter Early, James Elliot, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Samuel Hammond, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, John Patterson, John Randolph, Thomas M. Randolph,

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John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Cæsar A. Rodney, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Marmaduke Williams, Richard Winn, and Joseph Winston,

NAYS—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana John Davenport, Thomas Dwight, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, William Helms, Benjamin Huger, Joseph Lewis, jun., Henry W. Livingston, Thomas Lowndes, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, John Cotton Smith, John Smith of Virginia, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

The report of the committee, in relation to the second resolution, was agreed to unanimously.

Mr. J. RANDOLPH moved that a Committee be appointed to appear at the bar of the Senate, to impeach, in the name of the House of Representatives, Samuel Chase, of high crimes and misdemeanors.

The motion was adopted, and Messrs. J. RANDOLPH and EARLY appointed the committee.

#### TUESDAY, March 13.

Mr. NICHOLSON, from the committee to whom were referred, on the twenty-fifth of January last, the memorials of Alexander Moultrie, of the State of South Carolina, in behalf of himself and others; and of the Virginia Yazoo Company, by William Cowan, their agent, together with the report of a select committee thereon; made a supplementary report; which was read, and ordered to lie on the table.

Mr. LATTIMORE, from the committee appointed on the tenth instant, presented, according to order, a bill to suspend, for a limited time, the execution of a part of the twelfth section of the act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee;" which was read twice and committed to a Committee of the whole House to-morrow.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That there shall be a call of the House at ten o'clock each morning, during the present session; and there shall be deducted one day's pay from the compensation of each member who shall fail of attending such call, unless he shall render to the House satisfactory reasons for such neglect:

The question was taken that the House do now proceed to take the said motion into consideration, and passed in the negative.

A message from the Senate informed the House that the Senate have agreed to the resolution of this House of the twelfth instant, "to instruct the Joint Committee of Enrolled Bills to wait on the President of the United States respecting a variance between an engrossed and enrolled bill,"

also to the resolution of this House, of the sixth instant, for an adjournment of the two Houses of Congress, with an amendment; to which they desire the concurrence of this House. The Senate have passed the bill, entitled "An act making an appropriation for carrying into effect the Convention between the United States and the King of Spain, on the eleventh of August, 1802," with several amendments; to which they desire the concurrence of this House.

The House resolved itself into a Committee of the Whole on the bill making provision for the disposal of the public lands in the Indiana Territory, and for other purposes; and, after some time spent therein, the bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

The said bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be engrossed, and read the third time to-morrow.

Mr. JOHN RANDOLPH, from the committee appointed on the twelfth instant, reported—

That, in obedience to the order of the House, the committee had been to the Senate, and in the name of the House of Representatives, and of the people of the United States, had impeached Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, of high crimes and misdemeanors; and had acquainted the Senate that the House of Representatives will, in due time, exhibit particular articles against him, and make good the same.

And further: That the committee had demanded that the Senate take order for the appearance of the said Samuel Chase, to answer to the said impeachment.

On motion, it was,

*Resolved*, That a committee be appointed to prepare and report articles of impeachment against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, who has been impeached by this House, during the present session, of high crimes and misdemeanors; and that the said committee have power to send for persons, papers, and records.

*Ordered*, That Mr. JOHN RANDOLPH, Mr. NICHOLSON, Mr. JOSEPH CLAY, Mr. EARLY, and Mr. BOYLE, be appointed a committee, pursuant to the said resolution.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, who were directed by a resolution of this House, of the second ultimo, "to inquire into, and report their opinion upon the expediency of discontinuing the allowance of drawbacks of the duties on spirits, gunpowder, soap, candles, and playing cards of foreign manufacture; and of allowing, in lieu of drawbacks, — per gallon on all spirits exported both of foreign and domestic manufacture," made a report thereon; which was read, and ordered to be referred to the Committee of the whole House to whom was committed, on the tenth instant, the bill for imposing more specific duties on the importation of certain articles; and, also, for levying and collecting light money on foreign ships or vessels.

The House proceeded to consider the amendment proposed by the Senate, to the resolution for

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an adjournment of the two Houses of Congress; and the said amendment being to strike out the word "third," next before the words "Monday, in the present month," and, in lieu thereof, to insert the word "fourth," was, on the question put thereupon, agreed to by the House.

The House proceeded to consider the amendments proposed by the Senate, to the bill, entitled "An act making an appropriation for carrying into effect the Convention between the United States and the King of Spain, on the eleventh of August 1802." Whereupon,

*Resolved*, That this House do agree to the said amendments.

## PUBLIC BUILDINGS.

The House resolved itself into a Committee of the whole on the report of the Committee of the sixth instant, to whom was referred, on the twenty-second ultimo, the Message from the President of the United States, communicating a report of the Surveyor of the Public Buildings at the City of Washington; and, after some time spent therein, the Committee rose and reported a resolution thereupon; which as read as follows:

*Resolved*, That fifty thousand dollars ought to be appropriated, to be applied under the direction of the President of the United States, in proceeding with the public buildings at Washington; and in making such necessary improvements and repairs thereon, as he shall deem expedient.

The House proceeded to consider the said resolution: Whereupon, the question was taken that the House do concur with the Committee of the whole House in their agreement to the same; and resolved in the affirmative—yeas 57, nays 23, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Adam Boyd, John Campbell, Clifton Claggett, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Samuel W. Dana, John Davenport, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, James Gillespie, Peterson Goodwyn, Thomas Griffin, Samuel Hammond, John A. Hanna, James Holland, Benjamin Huger, Walter Jones, William Kennedy, Joseph Lewis, jr., Henry W. Livingston, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Thomas Newton, jr., Joseph H. Nicholson, Thomas M. Randolph, John Rea of Pennsylvania, Thomas Sandford, John Smilie, Henry Southard, Richard Stanford, Joseph Stanton, James Stephenson, Samuel Tenney, Philip R. Thompson, Abram Trigg, John Trigg, Daniel C. Verplanck, Peleg Wadsworth, Marmaduke Williams, and Joseph Winston.

NAYS—Simeon Baldwin, John Boyle, Robert Brown, William Butler, George W. Campbell, Matthew Clay, Manasseh Cutler, Thomas Dwight, John Fowler, Andrew Gregg, Gaylord Griswold, Seth Hastings, John G. Jackson, Nehemiah Knight, Michael Leib, Gideon Olin, Oliver Phelps, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Ebenezer Seaver, James Sloan, and Joseph B. Varnum.

*Ordered*, That a bill, or bills, be brought in, pursuant to the said resolution; and that Mr.

THOMPSON, Mr. SMILIE, Mr. HUGER, Mr. JOHN CAMPBELL, and Mr. CUTTS, do prepare and bring in the same.

Mr. J. CLAY moved the following resolution:

*Resolved*, That a committee be appointed to inquire into the expediency of authorizing the Legislature of the Commonwealth of Pennsylvania to lay and collect, by law, a tonnage duty on vessels employed in foreign commerce, which may enter the port of Philadelphia, not exceeding four cents per ton, on vessels of one hundred and fifty tons burden, and upwards; and not exceeding two cents per ton on vessels under one hundred and fifty tons burden; for any period of time not exceeding five years, to constitute a fund for improving the port of Philadelphia, and for removing obstructions to the navigation of the river Delaware; and that the said committee have leave to report by bill, or otherwise.

The House proceeded to consider the said motion at the Clerk's table: When, an adjournment being called for, the House adjourned.

WEDNESDAY, March 14.

A petition of sundry citizens of Washington, in the District of Columbia, was presented to the House and read, praying that an act may be passed by Congress to enable the petitioners and others interested therein, to form an incorporated company, by shares transferable, for the purpose of carrying on commercial and banking business within the said District.

*Ordered*, That the said petition do lie on the table.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, presented a bill for the relief of the heirs of John Habersham; which was read twice and committed to a Committee of the Whole to-morrow.

Mr. THOMPSON, from the committee appointed yesterday, presented a bill concerning the public buildings at the City of Washington; which was read twice and committed to a Committee of the whole House to-morrow.

Mr. GAYLORD GRISWOLD, from the committee appointed on the twenty-fifth of November last, who were directed, by a resolution of this House, of the twenty-second ultimo, "to inquire whether it be necessary to extend Federal jurisdiction to the ordinary court or courts, to be organized for that special purpose, in the Mississippi Territory of the United States," made a report thereon; which was read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act providing for the expenses of the civil government of Louisiana," with several amendments; to which they desire the concurrence of this House. Also communicating to the House certain proceedings of the Senate, relative to the impeachment of Samuel Chase, one of the Associate Justices of the Supreme Court of the United States.

The said proceedings of the Senate are as follows:

"IN SENATE OF THE UNITED STATES,

"March 14, 1804.

"Whereas, the House of Representatives, on the thirteenth day of the present month, by Mr. JOHN RAN-

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DOLPH and Mr. EARLY, at the bar of the Senate, impeached Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, of high crimes and misdemeanors; and acquainted the Senate that the House of Representatives will, in due time, exhibit particular articles of impeachment against him, and make good the same.

"And likewise demanded, that the Senate take order for the appearance of the said Samuel Chase, to answer to the said impeachment: Therefore,

*Resolved*, That the Senate will take proper order thereon, of which due notice shall be given to the House of Representatives.

*Resolved*, That the Secretary of the Senate notify the House of Representatives of this resolution."

"Attest, SAM. A. OTIS, Sec."

The House took up Mr. J. CLAY's resolution for the appointment of a committee to inquire into the expediency of authorizing the Legislature of Pennsylvania to lay a certain tonnage duty for improving the navigation of the river Delaware and the port of Philadelphia.

After a few remarks made by Mr. C. in support of the resolution, it was negatived—ayes 36 noes 42.

#### GOVERNMENT OF LOUISIANA.

The House went into a Committee of the Whole on the bill, from the Senate, providing for the government of Louisiana.

Mr. LEIB moved to amend the section fixing the salary of the Governor of Orleans, by striking out five thousand dollars, for the purpose of inserting three thousand dollars.

The sum of five thousand dollars was, he observed, higher than that allowed some of our Heads of Department, and was, in his opinion, above the necessary allowance.

Mr. NICHOLSON said he should have no objection to striking out five thousand dollars; but it would be for the purpose of inserting a higher sum. The office of Governor of this Territory was unquestionably one of the most important under the Government of the United States. In casting his eyes on those persons competent to a discharge of the great duties attached to the office of Governor, Mr. N. said, his mind had settled upon few individuals with whom it was satisfied. So impressed was he with the importance of the station, that he would agree to give the Governor a salary equal to that allowed to any foreign Minister. A man ought to be appointed, possessed of, and entitled to the full confidence of the Executive, and who, by his manners, character, and conduct, would win the esteem and love of those over whom he is called to preside. It was also well known to the members of the House that the expenses of living were greater at New Orleans than in any part of the United States. Hitherto the Governor of Spain had received a salary of eight thousand dollars. To give the Governor the paltry sum of three thousand dollars will not enable him to pay his expenses. For these reasons Mr. N. called for a division of the question.

The question was put on the striking out five thousand dollars, and passed in the negative—ayes 40, noes 44.

Mr. LEIB moved an amendment extending to  
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the inhabitants of Louisiana the naturalization act of the United States.

Mr. R. GRISWOLD opposed the amendment, from an impression that it was not expedient to vest the courts of Louisiana with the power of naturalization.

Mr. J. CLAY supported the amendment; as it went to extend to the inhabitants of Louisiana the privileges promised them by the treaty. Whether the proposed amendment would have this effect, he was not ready to say. If it would not, he hoped his colleague would move one that would have that effect. This privilege had been promised and ought to be granted. He presumed that a residence of five years would be required, as the privileges promised were to be received under the Constitution. Mr. C. concluded by saying there was a wide difference between naturalizing the inhabitants of Louisiana, and admitting them into the Union, and though gentlemen might have objections to the one object, they ought not, on the same ground, to object to the other.

The question was taken on the proposed amendment, and passed in the negative—ayes 32.

Mr. SLOAN moved an amendment inhibiting the admission of slaves into Louisiana, as well from the United States, as from foreign places.

Mr. S. concisely stated his reasons in favor of this provision, when the question was taken, and the amendment agreed to—ayes 40, noes 36.

Mr. G. W. CAMPBELL proposed an amendment, withholding from the parties to a civil suit the right of waiving a jury trial. The bill provides a jury trial in all cases in which either party shall require it.

This amendment, after being supported by Mr. G. W. CAMPBELL; and opposed by Messrs. HOLLAND, SOUTHARD, and DANA, was negatived—ayes 12.

Mr. G. W. CAMPBELL moved to strike out that part of the bill which renders every person settling on lands of the United States liable to a fine of one thousand dollars, and to one year's imprisonment.

This produced a debate of some length, and more animation: in which the motion to strike out was urged by Messrs. G. W. CAMPBELL, LYON, and CLAIBORNE; and opposed by Messrs. GREGG, NICHOLSON, BOYD, SMILIE, MACON, SLOAN, and HOLLAND.

The question was taken, and the amendment was negatived—ayes 23.

Mr. RHEA, of Tennessee, offered the following new section:

"And be it further enacted, That all grants for lands within the territories ceded by the French Republic to the United States, by the treaty of the thirtieth of April, in the year one thousand eight hundred and three, the title whereof was, at the date of the Treaty of Ildefonso, in the Crown, Government, or nation of Spain, and every act and proceeding subsequent thereto of whatever nature, towards the obtaining any grant, title, or claim, to such lands, and under whatsoever authority transacted, or pretended, be, and the same are hereby declared to be, and to have been from the beginning, null and void, and of no effect, in law or equity."

Mr. EARLY said, he hoped this resolution would

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not be adopted. He was opposed to it for special as well as general reasons. It declared null and void, not only all grants or titles obtained since the period of cession, but likewise all grants or titles acquired subsequently to the Treaty of St. Ildefonso, or, in other words, during the time the territory belonged to France. He believed it was well understood that after France obtained the country a number of grants had been made. It was certain that the French Government was invested with authority to make grants, and I think, said Mr. E., a legislative declaration that such grants are void, extremely improper. This is the particular reason for which I am opposed to the amendment. I have also a general reason against it. I consider a Legislative body undertaking to declare a grant null and void an assumption of power. If a grant, whether it be of land, or to any corporate body, be null and void, it is so without any Legislative provision. It may be said, however, that such a provision is innocent. I do not think so; because it involves an assumption of power, which is in its nature judicial, exclusively judicial. For these reasons I am opposed to the resolution.

Mr. RHEA, of Tennessee, said, in reply to the gentleman from Georgia, he would only read the first article of the Treaty of Cession. [Here Mr. R. read the first article.] This, said he, is a sufficient answer to the first argument of the gentleman. As to the second part of his reason, it is only necessary to say, that in order to enable the courts of justice to decide properly, laws must be passed fixing the principles on which courts are to decide.

Mr. NICHOLSON said he thought this was a subject on which the House ought not to act at present. It seemed to imply an unwarrantable suspicion of the Government of Spain. It would be sufficient time to act when they obtained correct information.

Mr. GREGG said there was one reason which would induce him to vote for the resolution. Certain fraudulent grants appear to have been made. Without some notice of them now, second purchasers will be hereafter coming forward to Congress, and will say that they had no knowledge of the fraud. He should therefore vote for the resolution.

Mr. HOLLAND expressed the same ideas with Mr. GREGG.

Mr. NICHOLSON observed, that as he was persuaded the amendment would have the effect stated by the gentlemen from Pennsylvania and North Carolina, he had no objection to it.

The amendment was then agreed to.

Mr. RHEA, of Tennessee, moved the following as a new section, which was likewise agreed to without debate:

"And the sum of fifteen thousand dollars, out of any money in the Treasury not otherwise appropriated by law, is hereby appropriated to enable the President of the United States to effect the object expressed in this section."

Mr. EARLY moved the following as a substitute for the fourth section:

"SEC. 4. The Legislative power shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed by the President of the United States from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory, or the United States, to serve one year from the time of their appointment: And the said Legislative Council shall, at their first session, lay off or divide the said Territory into convenient counties or districts, and apportion among them, according to their respective numbers, the thirteen members of the said Legislative Council, who shall, after the expiration of one year from the time of their first appointment, be chosen annually by all the free male white persons of the age of twenty-one years, who were resident in said Territory on the thirtieth day of April, one thousand eight hundred and three, and who had been resident therein one whole year next before the election, on their producing satisfactory proof to the officers of the elections that they have taken an oath of allegiance to the United States, agreeably to an act of Congress passed on the fourteenth day of April, one thousand eight hundred and two, entitled 'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject;' and by citizens of the United States, who may since that time have become residents in said Territory, and who shall have resided therein one whole year, six months of that time next before the election, to be in the district or county in which he or they shall vote; and the Legislative Council, so chosen as aforesaid, shall have power to fix the times and places, and to determine the manner of holding the said elections, and to judge of the qualifications of the members and the validity of their elections. But if any of the said districts or counties shall refuse or neglect to make such election for one month after the time appointed for holding the same, then the Governor, with the Council, shall appoint a person or persons, who shall reside within the district, and be qualified as aforesaid, to serve for the district or county so neglecting or refusing. The Governor, by and with the advice and consent of the Legislative Council, or a majority of them, shall have power to alter, modify, or repeal, the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful powers of legislation; but no law shall be valid, which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship, in all which he shall be free to maintain his own, and not burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall from time to time report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall thenceforth be of no force. The Governor, or Legislative Council, shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor interfere with the claims to land within the said Territory. The Governor shall convene and prorogue the Legislative Council, whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same from time to time to the President of the United States."

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The Committee now rose, reported progress, and obtained leave to sit again.

Mr. NICHOLSON said it had been for some time in contemplation to establish a branch bank at New Orleans. The business had been before the President and Directors of the Bank of the United States, who were of opinion that they were not authorized to establish the branch. He therefore moved that the Committee of Ways and Means be instructed to prepare and report a bill authorizing the President and Directors of the Bank of the United States to establish offices of discount and deposit in any of the territories and dependencies of the United States.

The motion was immediately agreed to, and Mr. NICHOLSON reported a bill for that purpose.

The bill making provision for disposing of the public lands in the Indiana Territory, and for other purposes, was read the third time and passed.

#### THURSDAY, March 15.

The following Message was received from the PRESIDENT OF THE UNITED STATES:

Agreeably to the request of the Senate and House of Representatives, delivered to me by their Joint Committee of Enrolled Bills, I now return the enrolled bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha," to the House of Representatives, in which it originated.

TH. JEFFERSON.

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*Ordered*, That the said Message, together with the enrolled bill, be referred to the Joint Committee for Enrolled Bills, with instruction to correct the variance between the engrossed bill, with the amendments thereto, as passed by both Houses, and the enrolment thereof, and report the same to the two Houses.

Mr. ROGER GRISWOLD, from the committee appointed on the twelfth instant, presented, according to order, a bill to authorize the adjournment of district courts by Marshals in certain cases; which was read twice and committed to a Committee of the Whole House to-morrow.

Mr. NICHOLSON, from the Committee of Ways and Means, presented a bill supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States;" which was read twice and ordered to be engrossed, and read the third time to-morrow.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act providing for the expenses of the civil government of Louisiana; whereupon,

*Resolved*, That this House do agree to the said amendments.

The House resolved itself into a Committee of the Whole on the bill concerning the public buildings at the city of Washington; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of the heirs of

John Habersham; and, after some time spent therein, the Committee rose and reported two amendments thereto; which were severally twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill for the relief of the legal representatives of David Valenzin, deceased, and for other purposes; and, after some time spent therein, the bill was reported with two amendments; which were severally twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill in addition to an act, entitled "An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject;" and, after some time spent therein, the bill was reported with an amendment, which was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole on the bill to amend the act, entitled "An act concerning the registering and recording of ships and vessels;" and, after some time spent therein, the bill was reported with an amendment, and was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, do lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering;" with an amendment; to which they desire the concurrence of this House.

#### GOVERNMENT OF THE ARMY.

The House then went into Committee of the Whole on the bill providing rules for the government of the Army.

The fifth article is in the words following:

"ART. 5. Whatsoever officer or soldier shall presume to use traitorous or disrespectful words against the President of the United States, against the Vice President thereof, against the Congress of the United States, or against the Chief Magistrate, or Legislature of any of the United States, in which he may be quartered, if a commissioned officer, he shall be cashiered or otherwise punished as a Court Martial shall direct; if a non-commissioned officer or soldier, he shall suffer such punishment as shall be inflicted on him by the sentence of a Court Martial."

Mr. NICHOLSON moved to strike out this article.

Mr. VARNUM desired, before the question was put, to be indulged with an opportunity of reading the article at present in force, which would



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show that in principle it was the same with that in the bill.

Mr. V. read the old article, which was found to correspond in principle with the article under consideration, the only variation arising from the old provision applying to the "Congress of the United States and the State Legislatures." Why gentlemen should now be inclined to leaving the Army loose to calumniate the Government, he could not say.

Mr. NICHOLSON said it was not his wish to fence round the President, Vice President, and Congress, with a second seditious law. If the officers of the Army conduct themselves improperly it is in the power of the Executive to punish them. They can be removed at the will of the President, or by a Court Martial. Besides, I do not understand the section. What is the meaning of "traitorous words," used against the President, Vice President, and Congress. I know of no traitorous words that can be so used. There are none such to be found in the Constitution.

The question was then taken on Mr. NICHOLSON's motion, and carried.

After some further consideration of the bill, the Committee rose, and the House, by a great majority, refused them leave to sit again.

#### GOVERNMENT OF LOUISIANA.

The House then went into a Committee of the Whole on the bill for the temporary government of Louisiana.

The substitute of Mr. EARLY, for the fourth section of the bill, was, with some verbal amendments, agreed to.

The bill was reported to the House, which proceeded to consider the said amendments at the Clerk's table; whereupon the first amendment reported from the Committee of the Whole, being to strike out the fourth section of the original bill, in the words following, to wit:

"**SEC. 4.** The Legislative powers shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed annually by the President of the United States, from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory, or the United States. The Governor, by and with the advice and consent of the said Legislative Council, or of a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful powers of legislation; but no law shall be valid, which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not be burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall, from time to time, report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The Governor, or Legislative Council, shall have no power over the primary disposal of the soil, nor to tax the

lands of the United States, nor to interfere with the claims to lands within the said Territory. The Governor shall convene and prorogue the Legislative Council whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same from time to time to the President of the United States."

And to insert in lieu of the said fourth section a new section, as follows:

"**SEC. 4.** The Legislative powers shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed by the President of the United States, from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory, or the United States, to serve one year from the time of their appointment: And the said Legislative Council shall, at their first session, lay off or divide the said Territory into convenient counties or districts, and apportion among the said counties, or districts, according to their respective numbers, the thirteen members of the said Legislative Council: the members of the Legislative Council shall, after the expiration of one year from the time of the apportionment aforesaid, be chosen annually by all the free white male persons of the age of twenty-one years, who were resident in said Territory on the 30th day of April, one thousand eight hundred and three, and who had been resident therein one whole year next before the election, on their producing satisfactory proof to the officers of the election that they have taken an oath of allegiance to the United States, agreeably to an act of Congress passed on the fourteenth day of April, one thousand eight hundred and two, entitled 'An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject;' and by citizens of the United States, who may, since that time, have become residents in said Territory, or who may hereafter become residents, and who shall have resided therein one whole year, six months of that time next before the election, to be in the district or county in which he or they shall vote; and the Legislative Council so chosen as aforesaid, shall have power to fix the times and places, and to determine the manner of holding the said elections, and to judge of the qualifications of the members, and the validity of their elections. But if any of the said districts or counties shall refuse or neglect to make such election for one month after the time appointed for holding the same then the Governor, with the Council, shall appoint a person or persons, who shall reside within the district, and be qualified as aforesaid, to serve for the district or county so neglecting or refusing. The Governor, by and with the advice and consent of the Legislative Council, or a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful objects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not be burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made; and shall, from

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time to time, report the same to the President of the United States, to be laid before Congress, which, if disapproved by Congress, shall thenceforth be of no force. The Governor or Legislative Council shall have no power over the primary disposal of the soil, nor tax the lands of the United States, nor to interfere with the claims to land within the said Territory. The Governor shall convene and prorogue the Legislative Council whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions, of the inhabitants of the said Territory, and communicate the same, from time to time, to the President of the United States."

A division of the question on the said first amendment was called for, and, on the question that the House do agree to strike out the said fourth section of the original bill, it was resolved in the affirmative—yeas 74, nays 23, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Walter Bowie, John Boyle, Robert Brown, George W. Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Davenport, Jno. Dawson, William Dickson, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, Gaylord Griswold, Samuel Hammond, John A. Hanna, Seth Hastings, Joseph Heister, William Helms, David Holmes, John G. Jackson, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thos. Newton, jun., Gideon Olin, Beriah Palmer, Thomas Plater, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Cotton Smith, Henry Southard, Richard Stanford, William Stedman, John Stewart, Samuel Thatcher, Philip R. Thompson, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—Silas Betton, William Blackledge, Adam Boyd, John Campbell, Frederick Conrad, John B. Earle, William Findley, Josiah Hasbrouck, James Holland, Benjamin Huger, Walter Jones, William Kennedy, Andrew McCord, William McCreery, Samuel L. Mitchell, Joseph H. Nicholson, Samuel D. Purviance, Thomas M. Randolph, John Rea of Pennsylvania, John Smith of Virginia, Samuel Tenney, David Thomas and Philip Van Cortlandt.

And then the question being taken that the House do agree to the new section proposed to be inserted in lieu of the said fourth section, it was resolved in the affirmative—yeas 58, nays 42, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, William Blackledge, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, John Campbell, Thos. Claiborne, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John B. Earle, Peter Early, Jas. Elliot, Ebenezer Elmer, James Gillespie, Peterson Goodwyn, Andrew Gregg, Thomas Griffin, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Helms, David Holmes, Benjamin Huger, Walter Jones, Nehemiah Knight, Michael Leib, Andrew McCord, Wm.

McCreery, Samuel L. Mitchell, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, Henry Southard, John Stewart, David Thomas, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Richard Winn, and Joseph Winston.

NAYS—John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, George W. Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, William Eustis, William Findley, Gaylord Griswold, Roger Griswold, Samuel Hammond, Seth Hastings, James Holland, John G. Jackson, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Thomas Plater, Samuel D. Purviance, Thomas M. Randolph, James Sloan, John Cotton Smith, John Smith of Virginia, Richard Stanford, William Stedman, Samuel Tenney, Samuel Thatcher, Philip R. Thompson, John Trigg, Killian K. Van Rensselaer, and Marmaduke Williams.

The second amendment reported from the Committee of the Whole to the said bill, being twice read, was, on the question put thereon, agreed to by the House.

The third amendment reported from the Committee of the Whole being then read at the Clerk's table, and debate arising thereon, an adjournment was called for and carried.

FRIDAY, March 16.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act making an appropriation for the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering." Whereupon,

*Resolved*, That this House do disagree to the said amendment.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to the act, entitled 'An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancy in the offices both of President and Vice President;'" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act supplementary to the act, entitled 'An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President,'" was read twice, and committed to a Committee of the Whole to-morrow.

An engrossed bill for the relief of the heirs of John Habersham, was read the third time, and passed.

An engrossed bill for the relief of the legal representatives of David Valenzin, deceased, and for

other purposes, was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill entitled "An act altering the sessions of the District Courts of the United States for the districts of Virginia and Rhode Island," with several amendments; to which they desire the concurrence of this House.

An engrossed bill supplementary to the act incorporating the Bank of the United States, authorizing a branch at New Orleans, was read the third time.

Mr. VARNUM opposed, and Messrs. J. CLAY and S. L. MITCHILL supported it.

The question being taken, it passed—ayes 59.

An engrossed bill concerning the public buildings in the City of Washington, was read the third time, and passed—ayes 60.

#### NATURALIZATION LAW.

An engrossed bill in relation to the naturalization law was read the third time; and, on the question, shall the same pass? it was supported by Messrs. LEIB, S. L. MITCHILL, J. CLAY, SMILIE, and FINDLEY, and opposed by Messrs. R. GRISWOLD, DANA, and ALSTON.

The question was then taken by yeas and nays, and the bill was passed—yeas 65, nays 38, as follows:

**YEAS**—Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, John Boyle, Robert Brown, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, John Dawson, James Elliot, William Findley, John Fowler, James Gillespie, Peterson Goodwyn, Andrew Gregg, Samuel Hammond, John A. Hanna, Joseph Heister, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Oliver Phelps, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford, Joseph Stanton, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, Isaac Van Horne, Marmaduke Williams, Richard Winn, and Joseph Winston.

**NAYS**—Willis Alston, jun., Simeon Baldwin, Silas Betton, Adam Boyd, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, Thomas Dwight, Peter Early, Ebenezer Elmer, William Eustis, Thomas Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, Benjamin Huger, Joseph Lewis, jun., Henry W. Livingston, Nahum Mitchell, Thomas Plater, Ebenezer Seaver, Tompson J. Skinner, John Cotton Smith, William Stedman, James Stephenson, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, and Lemuel Williams.

[The bill exonerates aliens entering the United States between the years 1798 and 1802, from complying with the first provision of the act of

1798, requiring a declaration made in a court of the intention of the alien to become a citizen five years previous to his admission to citizenship.]

#### GOVERNMENT OF LOUISIANA.

The House resumed the consideration of the amendments reported yesterday from the Committee of the whole House to the bill, sent from the Senate, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof." Whereupon,

The third amendment, offered by Mr. RHEA, being under consideration, to insert after the words, "*And be it further enacted*," in the first line of the fourteenth section of the original bill, the words following, to wit:

"That all grants for lands within the territories ceded by the French Republic to the United States, by the treaty of the thirtieth of April, in the year one thousand eight hundred and three, the title whereof was, at the date of the Treaty of St. Ildefonso, in the Crown, Government, or nation, of Spain, and every act and proceeding subsequent thereto, of whatsoever nature, towards the obtaining any grant, title, or claim to such lands, and under whatsoever authority transacted or pretended, be, and the same are hereby declared to be, and to have been from the beginning, null, void, and of no effect in law or equity; and."

A debate of considerable length ensued, in which Messrs. NICHOLSON, J. CLAY, RHEA, of Tennessee, GREGG, HOLLAND, SMILIE, and ALSTON, supported; and Messrs. LYON, DANA, ELLIOT, and G. W. CAMPBELL opposed it.

The question was taken, that the House do agree to the said third amendment, and resolved in the affirmative—yeas 60, nays 42, as follows:

**YEAS**—Willis Alston, junior, Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Walter Bowie, Adam Boyd, Robert Brown, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Findley, James Gillespie, Andrew Gregg, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, James Holland, David Holmes, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Andrew McCord, Wm. McCreery, Andrew Moore, S. L. Mitchell, N. R. Moore, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Beriah Palmer, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, Joseph Stanton, John Stewart, Philip R. Thompson, John Trigg, Isaac Van Horne, Joseph B. Varnum, Marmaduke Williams, Richard Winn, and Joseph Winston.

**NAYS**—Simeon Baldwin, Silas Betton, William Blackledge, John Boyle, George W. Campbell, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, William Dickson, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, Thomas Griffin, Roger Griswold, Seth Hastings, Benjamin Huger, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, Nahum Mitchell, Jeremiah Morrow, Gideon Olin, John Patterson, Thomas Plater, Samuel D. Purviance, Erastus Root, Tompson J. Skin-

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ner, John Cotton Smith, Henry Southard, William Stedman, James Stephenson, Samuel Tenney, David Thomas, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

The other amendments, reported from the Committee of the whole House, being twice read, were agreed to by the House.

Another motion was then made further to amend the original bill, by striking out after the words "In all criminal prosecutions," in the seventh line of the fifth section thereof, the words "*which are capital*;" and also, by striking out, after the word "cases," in the eighth line of the same section, the words "*criminal and civil*."

And, on the question that the House do agree to the said amendment, it was resolved in the affirmative—yeas 44, nays 37, as follows:

YEAS—Isaac Anderson, John Archer, George Michael Bedinger, William Blackledge, John Boyle, George W. Campbell, Clifton Claggett, Thos. Claiborne, Matthew Clay, John Clopton, Jacob Crowninshield, John Dawson, James Elliot, Ebenezer Elmer, Samuel Hammond, Seth Hastings, James Holland, David Holmes, William Kennedy, Nehemiah Knight, Henry W. Livingston, Matthew Lyon, David Meriwether, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, junior, Gideon Olin, Beriah Palmer, John Patterson, Erastus Root, Tompson J. Skinner, James Sloan, John Smilie, Richard Stanford, Joseph Stanton, James Stephenson, John Stewart, Philip R. Thompson, John Trigg, Joseph B. Varnum, Marmaduke Williams, and Joseph Winston.

NAYS—Willis Alston, jun., Walter Bowic, Adam Boyd, Robert Brown, Levi Casey, Joseph Clay, Frederick Conrad, Manasseh Cutler, Peter Early, William Eustis, William Findley, Andrew Gregg, Thomas Griffin, John A. Hanna, J. Hasbrouck, J. Heister, Benj. Huger, Walter Jones, Michael Leib, Joseph Lewis, jr., Andrew McCord, William McCreery, Joseph H. Nicholson, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, John Cotton Smith, John Smith of Virginia, Henry Southard, Samuel Tenney, Philip Van Cortlandt, Isaac Van Horne, and Richard Winn.

The bill was then further amended at the Clerk's table, and, together with the amendments, ordered to be read the third time to-morrow.

SATURDAY, March 17.

Mr. SAMUEL L. MITCHILL, from the Committee of Commerce and Manufactures, presented a bill relative to the compensation of certain officers of the customs, and to provide for appointing surveyors in the districts therein mentioned; which was read twice, and committed to a Committee of the Whole on Monday next.

Mr. GEORGE W. CAMPBELL, from the committee appointed on the twenty-third of January last, presented a bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers; which was read twice, and committed to a Committee of the Whole on Tuesday next.

*Resolved*, That the Clerk of this House be authorized to continue the services of a third en-

grossing clerk in his office, from the first day of the present session until the further order of the House.

On a motion made and seconded that the House do come to the following resolution:

*Resolved*, That it is expedient to provide by law for exhibiting and registering, in proper offices, and in the language used in the United States, and prior to the — day of —, in the year —, all evidences of title and claims for land within the territories ceded by the French Republic to the United States, by the Treaty of the thirtieth of April, in the year 1803, which have originated by virtue of any legal grant made by the French Government, prior to the Treaty of Paris, of the tenth day of February, in the year 1763, or of any legal grant made by the Government of Spain subsequent to the convention made by and between the French Government and the Government of Spain, of the third of November, 1762, and prior to the Treaty of St. Ildefonso, of the first of October, 1800; or of any legal grant made by the British Government subsequent to the said Treaty of Paris, of the tenth of February, in the year 1763, and prior to the Treaty of Peace, of the third of September, 1783.

*Ordered*, That the said motion do lie on the table.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act altering the sessions of the District Courts of the United States for the districts of Virginia and Rhode Island:" Whereupon,

*Resolved*, That this House do agree to the said amendments.

The House proceeded to the farther consideration of the bill to amend the act, entitled "An act concerning the registering and recording of ships and vessels," which was amended and ordered to lie on the table on the fifteenth instant; and the said bill being further amended at the Clerk's table, was, together with the amendments, ordered to be engrossed, and read the third time on Monday next.

#### GOVERNMENT OF LOUISIANA.

The bill erecting Louisiana into two Territories, and providing for the temporary government thereof, was read the third time.

Mr. DAWSON moved a recommitment of the bill for amendment.

Mr. ALSTON was against a general recommitment of the bill, but friendly to a recommitment for the purpose of limiting its duration.

Messrs. NICHOLSON, SMILIE, EARLY, and S. L. MITCHILL, opposed the recommitment.

Mr. BEDINGER advocated the recommitment.

The motion to recommit was then negatived—ayes 39, noes 43.

Mr. ALSTON said, if there was no objection, he would move the insertion of a clause to limit the period of the bill, on account principally of the great powers conferred on the Executive.

This motion being objected to, by Mr. LYON, was declared out of order.

The question was then put on the passage of the bill.

Messrs. LYON, SLOAN, JACKSON, and BEDINGER opposed, and Mr. SMILIE supported its passage.

Mr. VARNUM moved to recommit, for amendment, that part of the bill that vests equity powers in the courts of Louisiana.

Motion negatived—ayes 39, noes 44.

A motion was made to recommit the fourth section; which was lost—ayes 15.

Mr. BEDINGER moved to recommit the last section for the purpose of obtaining a limitation to the act.

Motion carried—ayes 52.

The House went into a Committee of the Whole on the last section.

When Mr. NICHOLSON moved an amendment limiting the act to two years and to the end of the next session thereafter.

Mr. BEDINGER said he would like its limitation to one year better, but would, if it were the sense of the House, be satisfied with two years.

Mr. NICHOLSON's motion was agreed to without a division.

The House agreed to the amendment; when the final question was put on the passage of the bill, and carried in the affirmative by yeas and nays—yeas 66, nays 21, as follows:

YEAS—Willis Alston, junior, Isaac Anderson, David Bard, George Michael Bedinger, Walter Bowie, Adam Boyd, John Boyle, Robert Brown, Levi Casey, Thomas Claiborne, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, William Dickson, John B. Earle, Peter Early, Ebenezer Elmer, William Eustis, William Findley, James Gillespie, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, James Holland, Benjamin Huger, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, junior, Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, John Smilie, John Smith of Virginia, Richard Stanford, John Stewart, David Thomas, Philip R. Thompson, Abram Trigg, John Trigg, Philip Van Cortlandt, Isaac Van Horne, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—John Archer, Silas Betton, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, Samuel W. Dana, John Davenport, John Dawson, James Elliot, Gaylord Griswold, Roger Griswold, Seth Hastings, John G. Jackson, Henry W. Livingston, Matthew Lyon, Thomas Plater, James Sloan, John C. Smith, Samuel Tenney, and Lemuel Williams.

#### TERRITORY OF COLUMBIA.

Mr. DAWSON moved the following resolutions:

*Resolved*, That it is expedient for Congress to cede to the State of Virginia the jurisdiction of that part of the Territory of Columbia which was ceded to the United States by the said State of Virginia, by an act, passed the third day of December, in the year one thousand seven hundred and eighty-nine, entitled "An act for the cession of ten miles square, or any lesser quantity of territory, within this State, to the United States in Congress assembled, for the permanent seat of the General Government:" provided that the said State of Virginia shall consent and agree thereto.

*Resolved*, That it is expedient for Congress to cede to the State of Maryland the jurisdiction of that part of the Territory of Columbia, without the limits of the City of Washington, which was ceded to the United States by the said State of Maryland, by an act, passed the nineteenth day of December, in the year one thousand seven hundred and ninety-one, entitled "An act concerning the Territory of Columbia and the City of Washington:" provided the said State of Maryland shall consent and agree thereto.

On referring the resolutions to a Committee of the Whole, the House divided—ayes 40, noes 28. There not being a quorum, a motion was made to adjourn, and lost—ayes 31.

The question was then put on considering the resolutions—ayes 36, noes 32.

There being no quorum, the motion to adjourn was repeated, and carried—ayes 45, noes 24.

MONDAY, March 19.

An engrossed bill to amend the act, entitled "An act concerning the registering and recording of ships and vessels," was read the third time, and passed.

Two petitions of sundry relatives and friends of the officers and others serving on board the United States' frigate Philadelphia, and of sundry other inhabitants of the City of Philadelphia, were presented to the House and read, respectively praying that the Government of the United States will be pleased to take such measures as may be deemed effectual and proper to rescue, from the deplorable state of slavery, the officers and crew of the said frigate Philadelphia, who are stated by the petitioners to have been lately captured near the coast of Tripoli.

*Ordered*, That the said petitions be referred to the Committee of Ways and Means.

*Resolved*, That there be a call of the House to-day at two o'clock, post meridian.

Mr. DAWSON's motion to cede the Territory of Columbia, with the exception of the City of Washington, was referred to a Committee of the Whole to-morrow.

The House resolved itself into a Committee of the Whole, on the bill for the relief of the legal representatives of the late General Moses Hazen; and, after some time spent therein, the bill was reported without amendment, and ordered to be engrossed and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee;" and, after some time spent therein, the Committee rose and reported progress.

Pursuant to the order of this day, the Clerk proceeded to a call of this House; and ninety-six members (including the Speaker) appeared in their places.

The absentees being then called over and noted, it appeared that forty-four members were absent; twenty-four of whom have obtained leave; one has not appeared in his seat during the session; and nineteen, for whom no excuses or insufficient

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excuses were made, failed to be present at the call.

The last mentioned absentees appearing immediately after the call, were, on a motion made and seconded, ordered to be severally excused.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the said amendments of the Senate: Whereupon,

*Ordered*, That the said amendments, together with the bill, be committed to Mr. THOMAS, Mr. SANFORD, Mr. HANNA, Mr. WADSWORTH, and Mr. STANFORD.

The House proceeded to the further consideration of the bill to extend the time for making the oath required in case of goods, wares, and merchandise, exported and entitled to drawback, and therein to amend the act, entitled "An act to regulate the collection of duties on imports and tonnage," which was amended by the House on the fourth of January last: Whereupon, a motion was made and seconded further to amend the said bill; and, on the question that the House do agree to the further amendment proposed thereto, it passed in the negative.

And then the question being put that the said bill, with the amendment agreed to, be engrossed for a third reading, it passed in the negative. So the bill was rejected.

#### TUESDAY, March 20.

*Resolved*, That there be a call of the House every day, at half past ten o'clock, during the remainder of the session.

The order of the day for the House to resolve into a Committee of the Whole, on the bill supplementary to the act, entitled "An act more effectually to provide for the organization of the Militia of the District of Columbia," being called for, a motion was made, and the question being put, that the said order of the day be postponed until the first Monday in December next, it was resolved in the affirmative.

An engrossed bill for the relief of the legal representatives of the late General Moses Hazen was read the third time, and passed.

A Message was received from the President of the United States, communicating a letter received from Captain Bainbridge, commander of the Philadelphia frigate, informing of the wreck of that vessel on the coast of Tripoli, and that himself, his officers, and men, had fallen into the hands of the Tripolitans.

The Message and the documents accompanying the same were read, and ordered to be referred to the Committee of Ways and Means.

A message from the Senate informed the House that the Senate agree to the seventh amendment proposed by the House to the bill sent from the Senate, entitled "An act erecting Louisiana into two Territories, and providing for the temporary

Government thereof;" also, to the eighth amendment, with an amendment thereto; to which they desire the concurrence of this House; and disagree to all the other amendments of this House to the said bill. The Senate have passed a bill, entitled "An act to erect a light-house at the mouth of the Mississippi river; and, also, a light-house at or near the pitch of Cape Lookout, in the State of North Carolina; and a beacon at the North point of Sandy Hook;" also, a bill entitled "An act for the relief of William A. Barron; to which they desire the concurrence of this House.

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The House resolved itself into a Committee of the Whole, on the bill for imposing more specific duties on the importation of certain articles; and, also, for levying and collecting light-house money on foreign ships or vessels; and, after some time spent therein, the bill was reported with several amendments thereto; which were severally twice read, and agreed to by the House.

Mr. DANA moved to amend the said bill, by inserting after the fifth section, a new section, proposed to be the sixth section of the bill, in the words following, to wit:

*"And be it further enacted*, That, from and after the last day of June next, the bonds to be given for securing the payment of the duties arising on spirits imported from the West Indies, shall be made payable, the one half in six, and the other half in nine calendar months from the date of each respective importation."

And on the question that the House do agree to the said amendment, it passed in the negative—yeas 38, nays 73, as follows:

YEAS—Simeon Baldwin, Silas Betton, William Chamberlin, Martin Chittenden, Manasseh Cutler, Richard Cutts, Samuel W. Dana, John Davenport, Thomas Dwight, William Eustis, Gaylord Griswold, Roger Griswold, Seth Hastings, Benjamin Huger, William Kennedy, Henry W. Livingston, Matthew Lyon, William McCreery, Nahum Mitchell, Thomas Plater, John Cotton Smith, William Stedman, Samuel Tenney, Samuel Thatcher, Philip Van Cortlandt, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

YEAS—Willis Alston, jr., Isaac Anderson, John Archer David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Adam Boyd, Robert Brown, John Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, William Dickson, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, William Findley, John Fowler, James Gillespie, Thos. Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Hoge, James Holland, David Holmes, John G. Jackson, Nehemiah Knight, Michael Leib, Andrew McCord, David Meriwether, Andrew Moore, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Richard Stanford Joseph Stanton, James Stephenson, John Stewart, Philip R.

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Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Marmaduke Williams, Richard Winn, and Joseph Winston.

*Ordered*, That the said bill, with the amendments agreed to, be engrossed, and read the third time to-morrow.

WEDNESDAY, March 21.

Pursuant to the order of yesterday, the Clerk proceeded to the call of the House, and ninety-two members, including the Speaker, appeared.

The absentees were then again called over and noted, and the door shut: after which it appeared that there were eleven members for whom no excuses or insufficient excuses were made, but who were then attending at the door to be admitted: Whereupon,

*Ordered*, That the said absentees, be severally excused.

On a motion made and seconded,

*Ordered*, That the resolution of the twentieth instant, for a call of the House every day, at half past ten o'clock, during the remainder of the session, be rescinded.

*Ordered*, That the Committee of Ways and Means, to whom were referred, on the nineteenth and twentieth instant, two petitions from sundry relatives and friends of the officers and others on board of the United States' frigate Philadelphia, and of sundry other inhabitants of the city of Philadelphia; also, a Message from the President of the United States, communicating information of the wreck of the said frigate, and of the capture by the Tripolitans of the officers and crew of the same; have leave to report thereon, by bill, or bills, or otherwise.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act altering the time for the next meeting of Congress;" to which they desire the concurrence of this House.

Mr. THOMAS, from the committee to whom was referred the amendments of the Senate to the post office bill, reported that it was expedient to agree to the same, with the exception of one amendment.

The House concurred in the report, and agreed to all the amendments but one, which authorizes a new route to New Orleans, to which they disagreed.

The bill sent from the Senate, entitled "An act for the relief of William A. Barron," was read twice and committed to Mr. NICHOLSON, Mr. JOHN C. SMITH, and Mr. S. L. MITCHILL.

The bill sent from the Senate, entitled "An act to erect a light-house at the mouth of the Mississippi river, and also a light-house at or near the pitch of Cape Lookout, in the State of North Carolina, and a beacon at the point of Sandy Hook," was read twice and committed to a Committee of the Whole to-morrow.

A bill sent from the Senate, entitled "An act to make further appropriations for the purpose of extinguishing the Indian claims," was read twice and committed to a Committee of the Whole House to-morrow.

The House resolved itself into a Committee of the Whole on the bill to repeal part of the act, entitled "An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen;" and after some time spent therein, the bill was reported with an amendment thereto; which was twice read, and, agreed to by the House.

*Ordered*, That the said bill, with the amendment, be engrossed and read a third time to-morrow.

Mr. NICHOLSON, from the Committee of Ways and Means, presented a bill further to protect the commerce and seamen of the United States against the Barbary Powers.

[The bill provides that an additional duty of two and a half per centum be laid upon all imported goods at present charged with a duty ad valorem, and an additional duty of ten per cent. on all such duties payable on goods imported in foreign vessels. The proceeds of these duties are to constitute a fund, to be called the Mediterranean fund. The duties to cease within three months after a peace with Tripoli, in case the United States are not engaged in war with some other of the Barbary Powers, in which case they are to cease within three months after a peace with such Powers. The President is authorized to cause to be purchased or built two vessels of war, to carry sixteen guns each, and as many gun-boats as he may think proper. One million of dollars, additional to the sum heretofore appropriated, is placed under the direction of the President for the naval service, which sum he is authorized to borrow at a rate of interest not exceeding six per cent.]

Mr. NICHOLSON moved that this bill should be made the order for this day—

Mr. R. GRISWOLD moved to-morrow.

The question on "to-morrow" was lost—yeas 33, nays 50; when Mr. NICHOLSON's motion prevailed.

#### DUTIES ON IMPORTS.

The bill laying more specific duties on certain articles, and imposing light-money on foreign vessels entering the ports of the United States, was read the third time.

Mr. HUGER moved its postponement to the first Monday of December, under the impression that its merits, and the principles it contained, had not received that full and deliberate examination to which they were entitled.

Mr. J. CLAY observed that a postponement would be virtually a rejection of the bill.

Mr. MITCHILL concisely advocated the principles of the bill.

Mr. BLACKLEDGE also defended it.

Mr. R. GRISWOLD opposed it, principally on the ground that it increased the existing rate of duties.

Mr. J. CLAY replied; and allowed that the duties imposed by the bill would produce more revenue than that heretofore received, but contended that this would arise from the fraudulent practice heretofore in use of making out invoices of articles subject at present to ad valorem duties. In removing this evil the necessary effect would be



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an increase of revenue, not exceeding, however, the probable receipt in case the invoices were fairly made out.

Mr. HUGER followed, in a speech of considerable length, in which he contended that the operation of the bill would be to promote the manufactures of the Eastern and Middle States, to the great detriment of the Southern States. Principally, though not entirely on this ground, he declared himself hostile to the bill.

After a few remarks from Mr. BOYD in defence, and of Mr. CLAIBORNE against the bill, the question of postponement was taken by yeas and nays and lost—yeas 40, nays 68, as follows:

**YEAS**—Simeon Baldwin, Silas Betton, George W. Campbell, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, John Clopton, Manasseh Cutler, John Davenport, William Dickson, Thomas Dwight, John B. Earle, Thomas Griffin, Gaylord Griswold, Roger Griswold, William Hoge, David Hough, Benjamin Huger, William Kennedy, Joseph Lewis, jr., David Meriwether, Nahum Mitchell, Thomas Moore, Thomas Plater, John Cotton Smith, Richard Stanford, William Stedman, James Stephenson, Samuel Tenney, Samuel Thatcher, Abram Trigg, John Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Marmaduke Williams, Richard Winn, and Joseph Winston.

**NAYS**—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Adam Boyd, Robert Brown, Joseph Clay, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, Samuel W. Dana, John Dawson, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, James Gillespie, John A. Hanna, Josiah Hasbrouck, Seth Hastings, Joseph Heister, James Holland, David Holmes, John G. Jackson, Walter Jones, Nehemiah Knight, Michael Leib, Henry W. Livingston, Matthew Lyon, Andrew McCord, William McCreery, Samuel L. Mitchill, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Joseph Stanton, John Stewart, Samuel Taggart, Philip R. Thompson, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, and Lemuel Williams.

Mr. KENNEDY moved a recommittment of the motion imposing a specific duty on printed calicoes and lime.

Motion rejected—yeas 34.

The question was then taken on the passage of the bill, and carried in the affirmative by yeas and nays—yeas 65, nays 41, as follows:

**YEAS**—Willis Alston, jr., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Robert Brown, Joseph Clay, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, James Gillespie, John A. Hanna, Josiah Hasbrouck, Seth Hastings, Joseph Heister, James Holland, David Holmes, John G. Jackson, Nehemiah Knight, Michael Leib, Matthew Lyon, An-

drew McCord, William McCreery, Samuel L. Mitchill, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Patterson, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Smilie, Henry Southard, Joseph Stanton, John Stewart, Philip R. Thompson, Philip Van Cortlandt, Isaac Van Horne, Joseph B. Varnum, Matthew Walton, Lemuel Williams, and Joseph Winston.

**NAYS**—Simeon Baldwin, Silas Betton, George W. Campbell, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, John Clopton, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, John B. Earle, Thomas Griffin, Gaylord Griswold, Roger Griswold, William Hoge, Benjamin Huger, William Kennedy, Joseph Lewis, jr., Henry W. Livingston, David Meriwether, Nahum Mitchell, Thomas Moore, Thomas Plater, John Cotton Smith, John Smith of Virginia, Richard Stanford, William Stedman, James Stephenson, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Abram Trigg, John Trigg, Killian K. Van Rensselaer, Peleg Wadsworth, Marmaduke Williams, and Richard Winn.

#### GOVERNMENT OF LOUISIANA.

The House took up the message of the Senate on the amendments of the House to the Louisiana bill, which represents the disagreement of the Senate to all the proposed amendments excepting two.

The amendments were taken up in the order of succession.

1st. The message stated the disagreement of the Senate to striking out the fourth section of the original bill, and to the substitution of another section.

On receding from this amendment, the House divided by yeas and nays—yeas 37, nays 63, as follows:

**YEAS**—Willis Alston, jr., Isaac Anderson, David Bard, Adam Boyd, Robert Brown, John Campbell, Levi Casey, Joseph Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John B. Earle, William Findley, Joseph Heister, James Holland, David Holmes, Benjamin Huger, Nehemiah Knight, Andrew McCord, William McCreery, Samuel L. Mitchill, Nicholas R. Moore, Joseph H. Nicholson, Thomas M. Randolph, John Rea of Pennsylvania, Jacob Richards, Thomas Sammons, John Smilie, John Smith of Virginia, John Stewart, Samuel Tenney, Philip R. Thompson, Abram Trigg, Philip Van Cortlandt, Isaac Van Horne, Matthew Walton, and Richard Winn.

**NAYS**—John Archer, Simeon Baldwin, George Michael Bedinger, Silas Betton, William Blackledge, Walter Bowie, George W. Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Matthew Clay, John Clopton, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, James Gillespie, Thomas Griffin, Gaylord Griswold, Seth Hastings, William Hoge, John G. Jackson, William Kennedy, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, David Meriwether, Nahum Mitchell, Andrew Moore, Thomas Moore, Jeremiah Morrow, Anthony New,

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Thomas Newton, jr., Gideon Olin, John Patterson, Thomas Plater, John Randolph, John Rhea of Tennessee, Erastus Root, Thomas Sandford, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Cotton Smith, Henry Southard, Richard Stanford, Joseph Stanton, William Stedman, Samuel Taggart, John Trigg, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, and Joseph Winston.

2. On receding from the amendment of the House to insert "criminal," in the room of "capital," the House divided—yeas 48, nays 32.

3. On receding from their amendment giving equity of powers to the courts of Louisiana, the House divided—yeas 58; carried.

4. On receding from their amendment declaring null all grants of land made subsequently to the Treaty of St. Ildefonso, the House divided—yeas 45, nays 46.

5. The message further stated they had agreed to the amendment of the House limiting the duration of the bill to two years, with an amendment, substituting one in the place of two.

On agreeing to the amendment of the Senate the House divided—yeas 45, nays 40.

The House then resolved to insist on their first amendment, striking out the fourth section—yeas 57.

The question was then taken, by yeas and nays on insisting on their fourth amendment, and carried affirmatively—yeas 53, nays 36, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Walter Bowie, Adam Boyd, Robert Brown, Levi Casey, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, John Dawson, William Findley, James Gillespie, Thos. Griffin, Joseph Heister, William Hoge, David Holmes, Walter Jones, William Kennedy, Michael Leib, Andrew McCord, William McCreery, David Meriwether, Andrew Moore, Nicholas R. Moore, Thomas Moore, Anthony New, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Smith of Virginia, Richard Stanford, John Stewart, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Joseph B. Varnum, Marmaduke Williams, Richard Winn, and Joseph Winston.

NAYS—Simcon Baldwin, Silas Betton, William Blackledge, George W. Campbell, John Campbell, Martin Chittenden, Thomas Claiborne, Samuel W. Dana, John Davenport, Thomas Dwight, Peter Early, James Elliot, Ebenezer Elmer, Gaylord Griswold, John A. Hanna, Seth Hastings, John G. Jackson, Nehemiah Knight, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, Nahum Mitchell, Jeremiah Morrow, Gideon Olin, Thomas Plater, Erastus Root, Tompson J. Skinner, John Cotton Smith, Henry Southard, Joseph Stanton, William Stedman, James Stevenson, Samuel Tenney, Samuel Thatcher, Matthew Walton, and Lemuel Williams.

*Resolved*, That this House do agree to the amendment proposed by the Senate to the eighth amendment of this House to the said bill.

*Resolved*, That a conference be desired with the Senate on the subject matter of the foregoing

amendments; and that Mr. NICHOLSON, Mr. RHEA, of Tennessee, and Mr. EARLY, be appointed managers at the said conference, on the part of this House.

#### NEXT MEETING OF CONGRESS

The bill sent from the Senate, entitled "An act altering the time for the next meeting of Congress," was read twice and committed to a Committee of the Whole House.

A motion was then made and seconded that the said bill be made the order of the day for the first Monday in December next: and on the question thereupon it passed in the negative—yeas 33, nays 68, as follows:

YEAS—Simcon Baldwin, Silas Betton, William Blackledge, Walter Bowie, Matthew Clay, Samuel W. Dana, John Davenport, Thomas Dwight, Peter Early, John Fowler, Thomas Griffin, Roger Griswold, Seth Hastings, Joseph Heister, William Hoge, Benjamin Huger, John G. Jackson, William Kennedy, Henry W. Livingston, Matthew Lyon, David Meriwether, Nahum Mitchell, Thomas Plater, Jacob Richards, Ebenezer Seaver, John C. Smith, Richard Stanford, William Stedman, Samuel Taggart, Joseph B. Varnum, Matthew Walton, Lemuel Williams, and Marmaduke Williams.

NAYS—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, Adam Boyd, Robert Brown, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, James Elliot, Ebenezer Elmer, William Eustis, William Findley, James Gillespie, Gaylord Griswold, John A. Hanna, Josiah Hasbrouck, James Holland, David Holmes, Walter Jones, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Andrew McCord, William McCreery, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas as Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sammons, Thomas Sandford, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Joseph Stanton, James Stephenson, John Stewart, Samuel Tenney, Philip R. Thompson, Abram Trigg, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph Winston.

*Resolved*, That the said bill be the order of the day for to-morrow.

THURSDAY, March 22.

A message from the Senate informed the House that the Senate insist on their sixteenth amendment, disagreed to by this House, to add to the first of two new sections after the third section of the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," and desire a conference with this House on the subject-matter of the said amendment; to which conference the Senate have appointed managers on their part. The Senate agree to all the amendments proposed by this House to the other amendments of the Senate to the said bill. The Senate have also agreed to the conference desired by this House

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on the subject-matter of the amendments depending between the two Houses to the bill sent from the Senate, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," and have appointed managers at the said conference on their part.

The House proceeded to consider so much of the foregoing message of the Senate as relates to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes:" Whereupon,

*Resolved*, That this House doth insist on their disagreement to the sixteenth amendment insisted on by the Senate to the said bill.

*Resolved*, That this House doth agree to the conference desired by the Senate on the subject-matter of the said amendment; and that Mr. VARNUM, Mr. R. GRISWOLD, and Mr. THOMAS, be appointed managers at the same, on the part of this House.

A Message was received from the President of the United States, transmitting the last returns of the militia of the United States. The Message, and the returns of the militia transmitted therewith, were read, and ordered to lie on the table.

An engrossed bill to repeal a part of the act, entitled "An act supplementary to the act concerning Consuls and Vice Consuls; and for the further protection of American seamen," was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act to ascertain the boundary of the lands reserved for the State of Virginia northwest of the Ohio river, for the satisfaction of her officers and soldiers on Continental Establishment, and to limit the period for locating the said land;" and after some time spent therein, the bill was reported without amendment. The bill was then read the third time, and passed.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments;" also, a bill, entitled "An act giving additional compensation to the Governor, Secretary, and Judges, of the Indiana Territory;" to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments," was read twice and committed to a Committee of the Whole to-morrow.

The bill sent from the Senate, entitled "An act giving additional compensation to the Governor, Secretary, and Judges, of the Indiana Territory," was read twice and committed to a Committee of the Whole to-morrow.

Mr. JOHN RANDOLPH, from the Committee of Ways and Means, who were instructed by a resolution of this House, of the thirtieth ultimo, "to inquire into the expediency of abolishing the office of Accountant of the Navy Department, and the office of the Accountant of the War Department," made a report thereon; which was read, and or-

dered to be referred to the Committee of the whole House to whom was this day committed the bill sent from the Senate, entitled "An act to amend the laws providing for the organization of the accounting offices of the Treasury, War, and Navy Departments."

The House resolved itself into a Committee of the Whole on the bill relative to the compensations of certain officers of the customs, and to provide for appointing surveyors in the districts therein mentioned; and, after some time spent therein, the Committee rose and reported several amendments thereto; which were severally twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendments, be engrossed, and read the third time to-morrow.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee;" and, after some time spent therein, the Committee rose and reported several amendments thereto; which were twice read, and agreed to by the House.

*Ordered*, That the said bill with the amendments, be engrossed, and read the third time to-morrow.

Mr. EUSTIS, from the committee to whom were referred, on the first instant, a letter from the Postmaster General, and sundry books or statements, marked A, B, C, and D, in relation to "the amount of postage in each State, for three successive years, commencing the first of October, 1800, and ending the thirtieth of September, 1803; also, to the amount of commissions of postmasters; to the expenses of transporting the mails on all roads in each State; and to other expenses of the post offices;" made a report: Whereupon,

*Ordered*, That the said letter, together with the summary report or statement, marked D, which accompanied the same, be printed for the use of the members of both Houses of Congress.

#### ADDITIONAL DUTIES.

The House resolved itself into a Committee of the Whole on the bill further to protect the commerce and seamen of the United States against the Barbary Powers.

Mr. GRISWOLD moved to strike out the first section, which is as follows:

*"Be it enacted, by the Senate and House of Representatives of the United States of America in Congress assembled*, That, for the purpose of defraying the expenses of equipping, officering, manning, and employing such of the armed vessels of the United States, as may be deemed requisite by the President of the United States, for protecting the commerce and seamen thereof, and for carrying on warlike operations against the Regency of Tripoli, or any other of the Barbary Powers, which may commit hostilities against the United States, and for the purpose also of defraying any other expenses incidental to the intercourse with the Barbary Powers, or which are authorized by this act, a duty of two and a half per centum ad valorem, in addition to the duties now imposed by law, shall be laid, levied, and collected upon all goods, wares, and merchandise,

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paying a duty ad valorem, which shall, after the thirtieth day of June next, be imported into the United States from any foreign port or place; and an addition of ten per centum shall be made to the said additional duty in respect to all goods, wares, and merchandise, imported in ships or vessels not of the United States, and the duties imposed by this act shall be levied and collected in the same manner, and under the same regulations and allowances, as to drawbacks, mode of security, and time of payment, respectively, as are already prescribed by law, in relation to the duties now in force on the articles on which the said additional duty is laid by this act."

Mr. G. said, that it was much to be regretted that gentlemen had thought proper, upon this occasion, to connect with the great and ostensible object of the bill, any provisions which should produce a disunion in the House. The unfortunate event in the Mediterranean called loudly for vigorous and decisive measures, and he trusted there would not exist on the floor a difference of opinion on that point. For himself, he was disposed to clothe the President with all the power, and to furnish him with all the means which were necessary to bring the war with Tripoli to a successful and speedy termination. And when this was done, to make him, as he ought to be, responsible for the event.

It is always improper, said Mr. G., to connect in the same bill two subjects which are in their natures distinct; and much more improper upon this occasion, to tack to the provisions for the Mediterranean service, upon which there could be no difference of opinion, a new tax, in respect to which gentlemen could not agree.

The first section of the bill, which he had moved to strike out, imposed a new tax of two and a half per centum ad valorem on all goods now liable by law to an ad valorem duty. Goods paying at this time an ad valorem duty were divided into three classes—the first class was liable to a duty of twelve and a half per cent.; the second, to a duty of fifteen per cent.; and the third, to a duty of twenty per cent.

The addition of two and a half per cent. now proposed, would increase the duties to fifteen, seventeen and a half, and twenty-two and a half per cent., when the goods were imported in American bottoms; and if they were imported in foreign bottoms, the duties would be further increased, by the addition of ten per cent.

This view of the import, said Mr. G., will satisfy gentlemen that the duties are already high, and that the proposed addition will render them enormous. This step, therefore, ought not to be hazarded, unless the necessities of the Government are absolutely imperious, and no other means can be resorted to for obtaining the money.

There is a point, in imposing duties, beyond which it is not safe or prudent to go, and it becomes gentlemen seriously to consider whether we have not already reached that point. The whole revenue of the United States is at this time collected from commerce. Every other branch of business has been exempted from immediate taxes. The impost has been collected hitherto

without much complaint, and with much punctuality; but this has been owing to the honor and integrity of the merchants. The facility of smuggling is great and extensive in this country. The extent of our coast, the innumerable inlets which are found upon it, and the small number of revenue cutters employed, renders it easy to smuggle goods, for those who are disposed to evade the laws.

Fortunately, however, it has been, and still is, disgraceful to engage in this business. But if new impositions are laid on commerce—if trade is made the pack-horse, to carry all the burdens of Government, no man can say how soon it will become fashionable to evade the laws. The merchant, soured by new burdens, and the short credit which is allowed him at the custom-houses, will begin to think it no disgrace to evade the laws and to save his money. He will soon believe that the Government which pays no respect to him, is not entitled to his support. It is easy to foresee what the effect must be, when a spirit of this kind prevails among those who are engaged in commerce. It is well known that the hazard of seizure is by no means equal to the duties, and when men no longer feel themselves bound in honor to pay the duties, will they be paid?

These considerations, said Mr. G., have induced me to reprobate the impolicy of laying all our burdens on commerce, and induced me to consider it unwise to touch the subject, but with the utmost delicacy.

The question then returns upon us, said Mr. G.: Are the necessities of the Government so imperious as to demand this great and extraordinary imposition?

We have not, said Mr. G., received from the Executive departments any estimate of the extraordinary force, or the supply necessary for this service—we are left entirely in the dark upon these important points. Having no connexion with the Executive departments, he had thought it his duty, yesterday, to inquire at the navy yard what ships had been ordered on this occasion for the Mediterranean, and, to his astonishment, he understood that two frigates only had been ordered to be got in readiness. He hoped the account he had received was incorrect, and trusted that some gentleman connected with the Executive, would inform the House what force was in contemplation.

Be the force however, said Mr. G., what it may, there can be no necessity at this time for a new tax. We have heard much for three years, about the wealth of the Treasury, the increase of revenue, and the economy of the Administration. And yet we are now told that the loss of a frigate, and a petty war with pirates, renders a new and large tax necessary.

But it may be proper to go into some detail. He was ignorant, as he had already observed, of the force contemplated by the Administration, but it would appear that the probable force could not require the new tax. Taking the estimate of the last year to ascertain the annual expense of ships on the Mediterranean station, it would appear—

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That two ships of forty-four guns each, might be maintained for	- \$197,214 74
One ship of thirty-six guns -	- 84,120 22
One ship of thirty-two guns -	- 65,233 17
Two brigs of twelve or fourteen guns each, for -	- 42,937 12

Forming an aggregate of the annual expense amounting to -	- 389,505 25
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Mr. G. said that he did not pretend to state that the force which he had stated was all that was necessary for the service. But a reinforcement of four frigates and two brigs, in addition to the force already in those seas, would cost the Government, if we followed the estimates of the Secretary of the Navy, only \$389,505 25 per annum, and if the extra force employed was much more considerable, still the expense would not arise so high as to require any new taxes.

The Treasury account, said Mr. G., of the last year stated that there was in the Treasury, on the first day of October, 1803, in specie, \$5,860,981 54. This sum he knew was charged with one or two instalments of the debt falling due under the British Convention, and with two millions, being a part of the \$3,750,000 stipulated under the French Convention, to be paid to the merchants.

But, after deducting those sums, there would still remain a sufficient balance for the present emergency. And unless the public had been deceived by those flattering representations which had been given of the Treasury operations, it was apparent that the Government could not want any new taxes.

The proposed tax, if fairly collected, would produce at least \$750,000 per annum. This result might be seen from a view of the imports into the United States of goods now liable to an ad valorem duty. From the last official report, it appeared that the importation of goods of that description, amounted in that year to about forty millions of dollars—the two and a half per cent. on the whole sum would, of course, produce one million, but, allowing for the drawback of duties on goods exported, the net revenue could not be less than \$750,000. Why, then, impose a tax of seven hundred and fifty thousand dollars to meet an expenditure which will not probably exceed four or five hundred thousand dollars?

The second section of the bill, said Mr. G., is not immediately under consideration, but he was obliged to refer to it for the purpose of explaining his objections to the first section. That section declared that the money arising from the new tax should constitute a distinct fund, under the denomination of the Mediterranean fund, and should be applied exclusively to the objects contemplated by the bill. This was a popular and a plausible provision, but it was perfectly deceptive, and in truth amounted to nothing. Those who gave the bill a cursory reading, would be led to suppose that the money arising from the tax could only be applied to the extra expense to be incurred in the Mediterranean; but this would not be the case. The money might be expended on

every object connected with the Mediterranean service, and, as the navy of the United States was only employed in those seas, the consequence would be, that the money would be expended on the navy generally. And in fact the new tax would produce a fund for supporting the Naval Establishment, and if the expense of that establishment did not greatly exceed the items which he had already stated, the new tax would nearly cover the whole expense of the navy, and, during the war with Tripoli, liberate the ordinary revenue from that branch of expense altogether. This, said Mr. G., looks too much like an attempt, on the part of the Administration, to avail itself of a public misfortune to impose new, impolitic, and unnecessary taxes, for the purpose of replenishing the Treasury, for purposes very different from those held out by the bill.

Mr. G. concluded by saying, that he would again express his regret that gentlemen had, in this unusual manner, connected two distinct subjects in the same bill, and in that manner destroyed the unanimity which would otherwise have prevailed in the House. He hoped a majority would consent to separate them, and agree to the motion for striking out.

Mr. NICHOLSON regretted that it was not in his power to furnish the information desired by the gentleman from Connecticut. Had he been solicitous to learn the extent of the armament about to be fitted out, he would not have gone to the navy yard for information, but to a higher authority, equally accessible to the gentleman as to himself. He had not himself sought this information, because he knew that the President, having confided to him a discretionary power as to the armed force of the nation, would use it in such a manner as would be most effectual. His only object, therefore, was to give him the power of using the means of the United States with energy; leaving the discretion in him, as it necessarily must be, to use it as he should think proper. If we were about to raise an army to commence hostilities against a foreign nation, it would not be the province of the House to inquire how it should be directed. Having authorized the raising and equipping it, it would forthwith come solely under the power of the Executive department—our power being confined to supplying the means by which it may be raised.

In introducing this bill, Mr. N. said, he had thought it proper, when the Government were about to incur a very heavy expense, that means should be provided by which it should be defrayed. The gentleman from Connecticut, who has moved to strike out this section, seems extremely willing to incur the expense, on condition that no means shall be provided by which it shall be defrayed. Mr. N. said he held it a sound doctrine in politics, and more particularly applicable to a Government like ours, when provision was made for incurring expenses, to provide likewise the means of meeting them. This was a doctrine by which the Legislature ought to be governed. They ought not to authorize any expense, without at the same time providing the means,

unless on great emergencies when the means are not in their power. There may be such emergencies, when it is proper to authorize the Executive to loan considerable sums; when no other means can be resorted to by the Government.

We are now about to authorize a greater expense than usual, and the Legislature are called upon to provide means for its discharge. For one, said Mr. N., I can never consent to add to the public debt, while the resources of the country are adequate to its wants. These are my ideas; and I feel somewhat surprised at the calculation of the gentleman from Connecticut, on the expense about to be incurred. He estimates this expense at \$388,000; though yesterday when this subject was laid before the Committee of Ways and Means, and it was contemplated to provide \$750,000, he moved to strike out \$750,000, and insert \$1,000,000. And yet he now tells us that only \$388,000 are required. As to the specie in the Treasury, the gentleman states that on the 1st of October there were \$5,000,000. But with what disbursements is this chargeable? Out of it there are to be paid American citizens for French spoiliations the sum of \$3,750,000 in cash, which must remain in the Treasury, that just claims may be paid as soon as presented. Under the British Convention there is to be paid \$800,000; and there is likewise to be paid the interest on Louisiana stock, amounting to \$685,000; the aggregate of which sums is \$5,235,000. Not having made this calculation until the gentleman made his observation, it is possible it may not be perfectly correct.

When the loss of the Philadelphia was announced, my first inquiry of the Secretary of the Treasury was what money could be spared from the Treasury for the prosecution of vigorous measures. His answer was, that the greatest sum which could be spared would not exceed \$150,000. I did not, like the gentleman, go to the clerks or to the navy yard; but I got the best information I could.

The gentleman from Connecticut, who appears willing to incur an expense of a million of dollars, while he is unwilling to provide the means of meeting it, objects to the mode of raising revenue proposed by the Committee of Ways and Means, without proposing any other. He objects to the laying additional duties on imported goods. In his remarks he has made an erroneous statement of the quantity of goods on which ad valorem duties are paid. His error has arisen from not deducting the amount of drawbacks. By an official statement made this session, it will be found that during the year 1802, goods paying ad valorem duties were as follows:

Rate.	Amount.	Duty.
12½ per cent.	\$23,377,717	\$2,922,214
15 "	7,888,614	1,183,292
20 "	439,830	87,966

Amounting to \$34,706,161 \$4,193,472

The average duty on goods charged ad valorem is about thirteen and a half per cent. Let us consider the duties paid by other articles. The gen-

tleman says in laying duties there is a point beyond which we cannot go in safety on account of the temptation to smuggling. This is true. But of all goods imported those chargeable with ad valorem duties are the most difficult to smuggle. The invoices are made out in the country from which they are imported. These must be authenticated, and presented at the custom-house and sworn to. If the collector has any reason to suspect that there are goods on board of a vessel, not in the entry, he is to make a thorough examination of the vessel. If he sees a bale in which he suspects there are goods not stated in the invoice, it is in his power to have it examined. I believe there is but little smuggling at this time; but that the articles on which there is most smuggling are rum and coffee. If the gentleman allows that the duty on articles charged specifically is not so high as to encourage smuggling to any great or dangerous extent, he will allow the same in the case of articles charged ad valorem. The great articles from which revenue are obtained, are

Spirits, which pay an average duty of twenty-nine and two-tenths cents, and which produce \$2,253,496, and cost the importer from twenty-five to fifty cents per gallon. Spirits which pay twenty-five cents a gallon do not cost the importer more than fifty cents, and consequently pay a duty of fifty per cent. on the price of the article. Spirits of the third proof pay twenty-eight cents, and do not cost more than fifty-six cents a gallon, which is equal to a duty of fifty per cent. So with spirits of higher proof. From this article is derived more than a fifth of our revenue, and yet I never heard the amount of the duty complained of until a few days since a petition was presented from the merchants of Connecticut. It is certain that Congress have never considered it so high as to encourage smuggling.

Of imported sugars 39,443,814 lbs. are consumed within the United States; which pay, on an average, a duty of two and a half cents per pound. The price of brown sugar to the importer is about five or six dollars the hundred. The duty is therefore between forty-five and fifty per cent. Is this duty considered so high as to encourage smuggling? If not, shall gentlemen complain when we are about to lay an additional duty of two and a half per cent. upon articles now chargeable with duties of from twelve and a half to twenty per cent?

Of salt there is consumed 3,244,309 bushels in the United States. It pays a duty of twenty cents a bushel. In many instances this is equal to the first cost; and amounts therefore to one hundred per cent.

The consumption of wines amounts to 1,912,274 gallons, and the average duty is thirty-three cents. The duty on Madeira wine is fifty-eight cents, and it costs the importer one dollar and twenty-five cents. The duty therefore amounts to near fifty per cent. If the cost be taken at one dollar and fifty cents the duty will be thirty-three and a third per cent. And yet it is not complained that it encourages smuggling.

Sherry and St. Lucar pay forty cents per gal-

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lon, and the original cost is not more than sixty-six cents. The duty bears the same proportion in the case of Lisbon.

Taking the average duty on wines we find it is from thirty-three to fifty per cent; and yet gentlemen say if the duty on articles chargeable ad valorem be raised from twelve and a half to fifteen per cent. it will encourage smuggling.

Teas produce \$382,669. Bohea tea pays a duty of at least one hundred per cent., and Souchong, Hyson, and other teas, pay in the same proportion.

Thus it appears that articles of great consumption, and many of them of almost indispensable necessity, pay a duty of fifty to one hundred per cent., and yet gentlemen are unwilling to lay an additional duty of two and a half per cent. on articles now paying duties of twelve and a half and fifteen per cent. As to those charged with twenty per cent. they are not worth considering, as the whole duties on them only amount to \$87,966, and as they are in themselves unimportant.

I have heard an idea thrown out, that instead of laying a duty on articles now charged with ad valorem duties, it would be more advisable to lay a specific duty upon all imported goods. I think I have shown that this would be unjust, and that the articles which at present pay specific duties are charged relatively sufficiently high. I believe if the emergencies of the country required it we might, without disturbing the proper proportion, lay an additional duty of from ten to fifteen per cent. on goods charged ad valorem, and without the increase being felt by the country, or its producing smuggling. At present it is only contemplated to raise them two and a half per cent.

I repeat it, that I consider it the duty of the Legislature, when they authorize extraordinary expenditures, to provide, so far as it is in their power, extraordinary means; for I believe we have no right to burden posterity with taxes which we dare not ourselves meet. The protection now asked for our trade is for our own benefit; we ought not, therefore, to shrink from the burden it necessarily creates. This is the reason why I advocate this additional duty of two and a half per cent., and because I believe trade will bear it, and because I do not think it will be felt by a man in the country. What will be the effect of the additional duty? The greater part of goods charged ad valorem are woollens, linens, manufactures of steel, brass, and articles of a similar kind, and muslins. In a muslin gown the additional duty will make a difference of about five cents. India muslins cost about fifteen cents a yard, and English about twenty-five cents. The additional duty will therefore be about three-eighths of a cent on India, and about three-fourths of a cent on English muslins. This I consider a burden which no one can feel. The additional duty on linens will be equally unfelt. In a bale of osnaburges, which costs twenty cents, the additional duty on a hundred yards will not exceed fifty cents. So as to Irish linens and woollens. The difference in a coarse suit of clothes for a common man will not be more than twenty-five

cents, and that of a better kind will not exceed one dollar and twenty-five cents. I am surprised, after taking this view of the operation of the proposed duty, that gentlemen should dwell upon the great burden it will impose, when it can, in truth, scarcely be felt by the poorest man in the country. It is indeed of no consideration but on account of the money raised by it, which I have estimated at about \$750,000.

The gentleman from Connecticut thinks he has discovered in the second section a design that is not avowed, to wit: to liberate the present resources from their application to the support of the Navy. I wonder, however, that the gentleman, before he made this unguarded remark, did not read the section through. He would then have seen that the fund established by this act is to exist no longer than three months after the discontinuance of war in the Mediterranean. Nor is it true that the whole expenses of the Navy are in the Mediterranean. It is true, that at this time they are principally there. But there is likewise considerable expense incurred here in the navy yard on the ships, and on the half-pay of officers not in actual service. Whence the gentleman deduces the inference, when the bill itself declares that the new duties shall cease three months after the end of the war, I am altogether at a loss to comprehend. The duties are to cease with the occasion which produced them. When we shall no longer be at war, the war duties will be at an end.

I had hoped that on an occasion like this, there would not have been a dissenting voice on this floor on measures for protecting the trade and supporting the character of the nation. But, I find that all hope of this kind is vain, and that every measure proposed, however necessary, will be opposed. I can only say that I regret it, and more particularly on this occasion, when our constituents have a right to expect perfect unanimity.

MR. DANA.—The gentleman from Maryland must surely have committed a mistake, when he said that there is no measure proposed on his side of the House which does not meet with opposition. When the President considered vigorous measures necessary against the Emperor of Morocco, the Journal will show that we entered into them unanimously. Nor is the objection now urged in any way an objection to the general measure contemplated. The only objection, is to the imposition of unnecessary taxes. If the force necessary to be sent into the Mediterranean will not exceed an expense of \$380,000, the necessity for the imposition of the proposed taxes surely does not exist. I admit that, after the force is raised, the President, in virtue of his authority as Commander-in-chief, is to have its whole direction; but it is perfectly novel to me to learn that we are not previously to be informed of the extent to which it is proposed to carry it. If to the present number of vessels in service we add two frigates and five smaller vessels, they will require only an additional appropriation of \$354,000. This, I believe, is the full extent of the additional force contemplated. As to raising money to that



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amount I make no objection. Though I dislike laying duties thus in gross, yet I do not know that there can be any great objection to it. The sum proposed to be raised will give \$750,000, which is more than double the sum necessary.

Is it proper thus to raise these duties, and hold forth to the nation that the commerce of the Mediterranean is so expensive? The late disaster in the Mediterranean is not of itself an adequate cause for the measure. I object to this measure, because it goes to give an improper impression of the causes of the bill.

Formerly, this way of raising revenue was arraigned as a deceptive mode of drawing money from the people. Now we find no murmur at extending it. Gentlemen may possibly be right when they say the country would not feel an additional duty of ten or fifteen per cent. I believe, however, they have not so much apathy as the remark implies.

Mr. R. GRISWOLD said he would not detain the Committee for many minutes. The gentleman from Maryland says that, in the select committee that introduced the bill, no estimate of expenses was considered necessary. The sum proposed to be appropriated, was \$750,000. I, said Mr. G., proposed adding to it, stating the necessity of making the sum appropriated sufficient; and that if the whole was not wanted it could not be used. I was willing, therefore, to appropriate a million; and I am still of opinion that it is proper to vest the President with ample powers, and I will vote with great cordiality for appropriating a million, trusting, if the whole expense is not necessary, it will not be incurred.

The gentleman from Maryland finds fault with my being ready to incur the expense, but not to provide the means for meeting it. If the new taxes were necessary I would vote for them, much as I dislike the mode. Gentlemen will, I hope, have the candor to believe us sincere, when they recollect that I opposed the repeal of the internal taxes. I thought then that it was not politic to load commerce with the whole burdens of the nation—I think so still.

By the last Treasury report, there appears to have been in the Treasury	-	-	-	\$5,560,000
Deduct for payments under				
French convention	-			\$3,750,000
Under British convention			800,000	
				4,550,000

Still in the Treasury	-	-	-	\$1,310,000
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I am sensible that there is some charge for the new debt contracted for Louisiana; but if we advert to the report of the Secretary of the Treasury, we will find he has not so estimated it. He states a surplus of \$200,000 of net revenue. He considers the interest of the Louisiana stock as chargeable upon the net revenue and not on the specie balance in the Treasury; for, as the interest accrues annually, the specie balance would soon be exhausted. I am sensible that it is difficult, from any documents on the table, to be perfectly correct. Had the gentleman distinctly attended to

my estimate of the avails of the proposed additional duties, he would have seen that it was not incorrect. I took the gross amount of goods chargeable ad valorem at forty millions, and estimated that two and a half per cent. duty thereon would produce a million; making twenty-five per cent. allowance for drawbacks, I made it produce the net sum of \$750,000.

Mr. G. concluded, by observing that the Committee must be sensible, by adverting to the act, that the proposed fund would not be confined to the Mediterranean. The second section is as follows:

"Sec. 2. *And be it further enacted, That a distinct account shall be kept of the duties imposed by this act, and the proceeds thereof shall constitute a fund, to be denominated 'the Mediterranean Fund,' and shall be applied solely to the purposes designated by this act; and the said additional duty shall cease and be discontinued at the expiration of three months after the ratification by the President of the United States of a Treaty of Peace with the Regency of Tripoli, unless the United States should then be at war with any other of the Barbary Powers, in which case the said additional duty shall cease and be discontinued at the expiration of three months after the ratification by the President of the United States of a Treaty of Peace with such Power: Provided, however, That the said additional duty shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to the day on which the duty is to cease.*"

The object is general, and gentlemen must be sensible, if the money collected is sufficient to discharge the expense of the Navy, it may be so applied. It must, indeed, be applied to that object, as none other is stated.

Mr. NICHOLSON said, the gentleman from Connecticut seemed to consider the object too general; he would, in case the Committee refused to strike out the first section, move to limit the application of the fund "to protect the commerce and seamen of the United States in the Mediterranean."

The question was then taken on striking out the first section, and passed in the negative—ayes 26.

Mr. N. then offered the amendment just stated.

Mr. EVSTIS hoped the gentleman from Maryland would withdraw his amendment, as in a subsequent part of the bill the object is distinctly specified. It is altogether unnecessary; and if agreed to, it will be necessary to add, "or adjacent seas."

Mr. NICHOLSON said, he considered the amendment as unnecessary; but as he had promised to make it, he could not withdraw it.

Mr. J. RANDOLPH said he would suggest one reason why it ought not to obtain. One of the Barbary Powers possessed a coast out of the Mediterranean. If the misfortune of the United States should dispose this Power, (Morocco,) already predisposed to hostility, to war upon the United States, it would not be in our power to block up the port of Salée, and several other ports out of the Mediterranean.

The question was taken on the amendment, which was lost without a division.

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The Committee then rose and reported the bill without amendment.

The House immediately took it up—when Mr. R. GRISWOLD renewed his motion to strike out the first section.

Mr. J. RANDOLPH said that, on his return yesterday to his seat after an indispensable absence during last week, he had learned with as much surprise as concern the disastrous event which had given rise to the bill then before them. Not being present when the bill originated in the Committee of Ways and Means, it could not be expected that he should go largely into detail; and even if he had been prepared so to do, the very satisfactory statement of his friend from Maryland (Mr. NICHOLSON) rendered it altogether unnecessary. He should content himself with offering some few remarks, by way of reply, to the objections of the gentleman from Connecticut, (Mr. GRISWOLD.) These resolved themselves into two distinct branches—first, to the raising of any additional revenue whatever; secondly, to the proposed mode of obtaining it.

On the first of these points, Mr. R. begged leave to refer to the report of the Secretary of the Treasury, laid before the House early in the present session.

He there computes the permanent annual revenue of the United States at - - - \$10,400,000  
And the permanent annual expense,  
viz: sinking fund, civil list, foreign  
intercourse, military and Indian,  
naval departments, on the existing  
establishment, is estimated at - 9,800,000

Leaving a surplus of revenue equal  
to - - - - - \$600,000

How these six hundred thousand dollars are to be disposed of will be seen hereafter. So much, sir, for our permanent revenue, and our permanent expenditure.

The extraordinary resources, consisting of specie in the Treasury and arrears of old taxes, amount to \$6,660,000; and this is the fund from which the gentleman from Connecticut boldly asserts we may defray the expense of the projected armament. But it will be observed that these extraordinary resources, ample as they are, are charged, as the gentleman himself well knows, with very heavy extraordinary demands. These, on account of our Convention with Great Britain, expenses in relation to it, and to the Convention with France, a loan due the State of Maryland, and two millions for the purchase of Louisiana, amount, altogether to \$4,964,000, which, being deducted from the preceding sum of \$6,660,000, will leave only \$1,696,000; beyond which the Secretary is of opinion it would not be prudent to reduce the specie in the Treasury.

But it is to be remembered that the purchase of Louisiana has created an additional debt of fifteen millions—\$11,250,000 of six per cent. stock transferred to the French Government, and \$3,750,000 payable in specie, during the present year, to American citizens having claims for spoiliations

against that Government. For discharging this last demand, however, two millions are reserved out of the extraordinary resources, as has just been stated, leaving a balance, on this account, of \$1,750,000, and reducing the whole amount of debt to be otherwise provided for, on account of Louisiana, to thirteen millions. And here permit me to remark, that, granting, for argument's sake, there was no necessity to retain a dollar in the Treasury, the above balance of \$1,750,000 would, of itself, be more than sufficient to absorb all that remained of our extraordinary resources, after defraying the extraordinary demands which I have enumerated. So sensible, however, have we been of the danger of entirely emptying the Treasury, that we have made provision for funding this balance of \$1,750,000, which will fall due this year, on account of American claims for spoiliations, as well as the \$11,250,000 payable to France. These thirteen millions of new debt form no part of the preceding statements. Out of what funds, then, is the annual interest, amounting to \$780,000, to be discharged? Certainly not out of the extraordinary resources, for these, after paying the extraordinary demands above stated, leave no greater surplus than it is necessary to keep in the Treasury; and, if the \$1,600,000, the amount of that surplus, could be spared, the specie balance of American claims, unpaid, is more than sufficient to employ it. No, sir; the only fund relied upon to meet the interest of this additional debt, is the surplus of the permanent revenue beyond the permanent expense, (under the existing establishments,) to which I formerly adverted, amounting to \$600,000, and, to supply the deficiency, the proceeds of the custom-house at New Orleans, taken at \$200,000. These, and these only, are the means which can be relied on to meet this additional expense; and the House will perceive that the Secretary of the Treasury advances "with diffidence the opinion that it is possible thus to provide for the payment of the interest of a new debt of thirteen millions, without recurring to additional taxes."

Mr. R. said he trusted it had been satisfactorily shown that there was not one dollar, either of ordinary or extraordinary revenue, which the existing engagements of the Government would not require. This had been repeatedly stated on various other occasions. It had been made an objection to the Senate's proposition for building two small vessels of war. It was then said, if necessary, we are ready to incur the expense, but not unless gentlemen are ready to raise the supplies for meeting it. The gentleman from Connecticut is too liberal; he is willing to grant the Administration credit for more than they require or deserve. After having paid near ten millions of the principal of the public debt, being ready to disburse near five millions more, on account of the extraordinary demands before mentioned, and having provided as well for the final extinguishment by adding to the Sinking Fund, as for the interest of the debt incurred by the purchase of Louisiana, without levying a single additional tax, they are content to acknowledge that they do

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not possess resources for defraying the expense of an extraordinary armament in the Mediterranean. The gentleman from Connecticut, however, insists that, after defraying these heavy demands, there is a large surplus remaining, and is willing to vote a million for this service, without providing means to raise a dollar.

Having established, as he conceived, the main object for which he rose, that additional revenue would be required in case we launched into this new expense, it only remained to inquire to what subjects of taxation we should resort. This point, Mr. R. said, had been so ably and forcibly dilated on by his friend from Maryland, that it was hardly necessary to ask whether the House were prepared to increase the duties on tea, coffee, spirits, wines, sugar, salt, and other articles of great and primary importance—for such our habits had rendered those which were not actual necessities of life—already loaded with specific duties amounting from twenty-five to seventy-five per cent. on their prime cost, or whether we should raise the comparatively low duties on those articles which were taxed ad valorem.

The gentleman from Connecticut has indeed gently insinuated his recommendation that we should burn our fingers with that species of taxation with which he had formerly scorched his own. He is unwilling to throw the whole burden of the nation upon its commerce, as if the very children had not learned that every tax on imports is not paid by the consumer of the article in question; and as if the very revenue in question were not for the protection of trade. Here Mr. R. went into a comparison between the advantages of indirect and direct taxation, and concluded by observing that there were two insuperable reasons for preferring the former, that it was the only mode, in the present state of our society, by which the necessary revenue could be raised, and that by confining ourselves to it altogether, the number of officers employed in the collection of that revenue, was as much as possible restricted. The proposed duties would not give a single additional office, or add in the smallest degree to the patronage of the Executive.

It was a needless memento to the House, or to the nation, to tell them that the gentleman and his friends opposed the repeal of the internal taxes. It would never be forgotten who had laid them on, nor who had taken them off. The people would never forget that the men who had given up that source of revenue and swept off a host of those blood-suckers, the excise men, had rapidly diminished the debt, and acquired Louisiana without laying one additional tax. They will pay the duties proposed in this bill with cheerful confidence, which they repose in its tried and faithful agents, in men who never draw a cent from their pockets but when the public exigency requires it. This language might be reprehended as boastful, but there were occasions when it was treachery to our principles not to assert them with freedom and boldness. He would never pusillanimously sit still and see an attempt to delude the public opinion, without endeavoring to expose it.

There was but one point on which he differed from his friend from Maryland. He could not deplore the opposition which this measure had received from a certain quarter. He conceived it a criterion of its merit. In the political, as in the physical world, there must be a centrifugal as well as a centripetal power. In no other manner, said Mr. R. can the harmony of this sphere be preserved. And so far from deprecating opposition, such as we have seen to-day, I invite it. I shall ever prefer the fair adversary who meets me in the field of open enmity, to the skulking assassin who declines the public combat only that he may spring upon me in an unguarded moment.

Mr. HUGER said he had only rose to observe that if this clause were retained, he should, notwithstanding, vote for the bill. He was perfectly ready to meet any expense necessary to support the national interest and character. He believed other modes than that pointed out by the bill would be better. He would prefer borrowing the sum; and that a tax on carriages should be laid to pay the interest.

The question on striking out the first section was taken by yeas and nays—yeas 28, nays 77, as follows:

YEAS—Simeon Baldwin, Silas Betton, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, Ebenezer Elmer, Gaylord Griswold, Roger Griswold, Benjamin Huger, Joseph Lewis, jun., Henry W. Livingston, Nahum Mitchell, Thomas Plater, Samuel D. Purviance, John Cotton Smith, Richard Stanford, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Peleg Wadsworth, and Lemuel Williams.

NAYS—Willis Alston, jun., Isaac Anderson, John Archer, David Bard, George Michael Bedinger, William Blackledge, Walter Bowie, Adam Boyd, Robert Brown, George W. Campbell, Levi Casey, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clepton, Frederick Conrad, Jacob Crowninshield, Richard Cutts, John Dawson, William Dickson, John B. Earle, James Elliot, William Eustis, William Findley, John Fowler, James Gillespie, Thomas Griffin, Samuel Hammond, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Michael Leib, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Erastus Root, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, Thompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Joseph Stanton, John Stewart, Philip R. Thompson, Abraham Trigg, John Trigg, Isaac Van Horne, Matthew Walton, Marmaduke Williams, Richard Winn, and Joseph Winston.

The bill was thereupon ordered to a third reading.

Being engrossed it was soon after brought in, and read a third time.

When Mr. HUGER required the yeas and nays

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on its passage. It was his wish to show that those most averse to this mode of raising revenue from its inequality and oppression, were, notwithstanding, ready to vote for carrying the great object of the bill into effect.

Mr. J. C. SMITH said he was sorry that the appropriation made and the mode of obtaining revenue to meet it, were incorporated in the same bill. As to the first object of the bill, there was no division in the House; on the second there was a diversity of opinion. He was persuaded, it was not proper at present to raise more revenue. Gentlemen, however, were determined to preserve the first section; and the responsibility of it must rest with them. However we may dislike it, approving of the great object of the bill, we must vote for it.

The question was taken by yeas and nays on the passage of the bill, and carried unanimously in the affirmative—yeas 98, nays none:

YEAS—William Alston, jun., Isaac Anderson, John Archer, Simeon Baldwin, David Bard, George Michael Bedinger, Silas Betton, William Blackledge, Walter Bowie, Adam Boyd, Robert Brown, William Butler, George W. Campbell, John Campbell, Levi Casey, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, Joseph Clay, Matthew Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Davenport. John Dawson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, William Eustis, William Findley, John Fowler, James Gillespie, Thos. Griffin, Gaylord Griswold, John A. Hanna, Josiah Hasbrouck, Joseph Heister, William Helms, William Hoge, James Holland, David Holmes, Benjamin Huger, John G. Jackson, William Kennedy, Nehemiah Knight, Michael Leib, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, Andrew McCord, William McCreery, David Meriwether, Nahum Mitchell, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, Thomas Newton, jun., Joseph H. Nicholson, Beriah Palmer, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Thomas Sandford, Ebenezer Seaver, James Sloan, John Smilie, John Cotton Smith, John Smith of Virginia, Henry Southard, Richard, Stanford, Joseph Stanton, William Stedman, James Stephenson, John Stewart, Samuel Taggart, Samuel Tenney, Philip R. Thompson, John Trigg, Isaac Van Horne, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Matthew Walton, Lemuel Williams, Marmaduke Williams, Richard Winn, and Joseph Winston.

FRIDAY, March 23.

An engrossed bill relative to the compensation of certain officers of the customs, and to provide for appointing surveyors in the districts therein mentioned, was read the third time, and passed.

An engrossed bill supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee," was read the third time and passed.

*Ordered*, That the Committee of the whole

House to whom was committed, on the fifteenth instant, the bill to authorize the adjournment of district courts by marshals, in certain cases, be discharged from the further consideration thereof; and that the said bill be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill in addition to "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States, during the Revolutionary War;" and, after some time spent therein, the bill was reported with an amendment which was twice read, and agreed to by the House.

*Ordered*, That the said bill, together with the amendment, be engrossed, and read the third time to day.

An engrossed bill to authorize the adjournment of district courts by marshals, in certain cases, was read the third time, and passed.

An engrossed bill in addition to "An act to make provision for persons that have been disabled by known wounds, received in the actual service of the United States, during the Revolutionary war," was read the third time, and passed.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act in relation to the Navy Pension Fund;" and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be now read the third time and passed.

The House resolved itself into a Committee of the Whole on the bill in addition to "An act for fixing the Military Peace Establishment of the United States;" and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be engrossed, and read the third time to-day.

The House resolved itself into a Committee of the Whole on the bill for the appointment of an additional judge for the Mississippi Territory, and for other purposes; and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be engrossed, and read the third time to-day.

The bill was subsequently read the third time and passed.

The House resolved itself into a Committee of the Whole, on the bill supplementary to the act, entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State;" and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be engrossed and read the third time to-day.

The House resolved itself into Committee of the Whole on the bill sent from the Senate, entitled "An act to erect a light-house at the mouth of the Mississippi river, and, also, a light-house at or near the pitch of Cape Lookout, in the State of North Carolina, and a beacon at the north point of Sandy Hook;" and, after some time spent therein, the bill was reported without amendment.

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The bill was then read the third time and passed.

The House resolved itself into a Committee of the Whole on the bill sent from the Senate, entitled "An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President, in case of vacancies in the offices both of President and Vice President;" and, after some time spent therein, the bill was reported without amendment.

*Ordered*, That the said bill be now read the third time. The bill was accordingly read the third time and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for the relief of the heirs of John Habersham," with an amendment; to which they desire the concurrence of this House; and the bill, entitled "An act in addition to an act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject,' with an amendment; to which they desire the concurrence of this House. The Senate have also passed the bill, entitled "An act authorizing the payment of two thousand eight hundred dollars to Philip Sloan;" to which they desire the concurrence of this House.

An engrossed bill supplementary to the act, entitled "An act to prescribe the mode in which the public acts, records, and judicial proceedings, in each State, shall be authenticated, so as to take effect in every other State," was read the third time and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," with several amendments; to which they desire the concurrence of this House.

The House proceeded to consider the amendments of the Senate to the bill last mentioned. Whereupon,

*Ordered*, That the said amendments, together with the bill, be committed to Mr. NICHOLSON, Mr. DWIGHT, and Mr. MORROW.

The bill sent from the Senate, entitled "An act authorizing the payment of two thousand eight hundred dollars to Philip Sloan," was read twice and committed to a Committee of the Whole to-morrow.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act in addition to an act, entitled 'An act to establish a uniform rule of naturalization, and to repeal the acts heretofore passed on that subject:'" Whereupon,

*Resolved*, That this House doth agree to the said amendment.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the relief of the heirs of John Habersham:" Whereupon,

*Resolved*, That this House doth agree to the said amendment.

## NEXT MEETING OF CONGRESS.

The House took up the bill received from the Senate, altering the time of the next session of Congress to the first Monday of November.

On the question whether the same shall pass? Messrs. LEIB, SLOAN, BEDINGER, and J. CLAY supported, and Messrs. THATCHER, LYON, HUGER, and ELMER opposed it, when the question was taken by yeas and nays, and the bill passed—yeas 54, nays 43, as follows:

YEAS—Willis Alston, jr., Isaac Anderson, David Bard, George Michael Bedinger, William Blackledge, Adam Boyd, Robert Brown, Thomas Claiborne, Joseph Clay, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Richard Cutts, John Dawson, John B. Earle, James Elliot, William Findley, James Gillespie, Samuel Hammond, Josiah Hasbrouck, David Holmes, Walter Jones, Nehemiah Knight, Michael Leib, Andrew McCord, William McCreery, Samuel L. Mitchell, Nicholas R. Moore, Thomas Moore, Anthony New, Joseph H. Nicholson, Bariah Palmer, John Patterson, John Randolph, Thomas M. Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, Thomas Sammons, Thomas Sandford, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Henry Southard, Joseph Stanton, John Stewart, Samuel Taggart, David Thomas, Philip R. Thompson, Isaac Van Horne, Peleg Wadsworth, and Joseph Winston.

NAYS—John Archer, Simeon Baldwin, Silas Betton, Walter Bowie, John Campbell, Martin Chittenden, Clifton Claggett, Matthew Clay, John Davenport, Thomas Dwight, Ebenezer Elmer, John Fowler, Thos. Griffin, Gaylord Griswold, Roger Griswold, Seth Hastings, Joseph Heister, William Hoge, David Hough, Benjamin Huger, William Kennedy, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, David Meriwether, Nahum Mitchell, Andrew Moore, Jeremiah Morrow, Gideon Olin, Thomas Plater, Jacob Richards, Ebenezer Seaver, John Cotton Smith, Richard Stanford, William Stedman, James Stephenson, Samuel Tenney, Samuel Thatcher, Kilian K. Van Rensselaer, Joseph B. Varnum, Matthew Walton, Marmaduke Williams, and Richard Winn.

## REVOLUTIONARY PENSIONERS.

Mr. NICHOLSON offered a resolution declaratory of the opinion of Congress, that the first section of the act providing for persons disabled by known wounds received during the Revolutionary war, &c., should be so construed, as to include all persons, who, in consequence of disability arising from known wounds, resigned their commissions.

Mr. SMILIE opposed the motion, under the idea that one act of Congress could only be explained by another act of the same kind.

Mr. NICHOLSON said this was as much a Legislative act as though it began with the words, "be it enacted."

Mr. J. C. SMITH suggested the propriety of accommodating the style to the phraseology of the laws. He was of opinion that one solemn act of legislation could only be superseded by an act equally sacred.

Mr. CAMPBELL expressed the same opinion.

On motion of Mr. NICHOLSON the resolution was referred to a committee empowered to report by bill.

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Mr. J. C. SMITH, from the committee this day appointed, presented, according to order, a bill supplementary to an act, entitled "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war;" which was read twice and ordered to be engrossed and read the third time to-day.

## LOUISIANA BILL.

Mr. NICHOLSON, from the managers appointed to confer with the managers of the Senate on the disagreeing votes of the two Houses on the Louisiana bill, made a report recommending that the House should recede from their amendment, proposing a substitute for the fourth section of the bill as it came from the Senate. The substitute provides for the election of a Legislative Council by the people of Louisiana. Mr. N. observed that the managers on the part of the Senate, had represented that the election of a Legislative Council by the people of Louisiana would be attended with inconveniences which he, for one, had never perceived before. It was stated by one of the managers who had been in Louisiana, and by another well acquainted with the situation of the country, that the settlements there were usually in parishes in which the inhabitants were generally of one description. Some of those parishes were entirely composed of Spaniards, some of French, some of Germans, and some of Creoles. If each of them were to send a member, the Legislative body would be composed of persons of different languages. The representatives of no two parishes would perhaps speak the same language. This, Mr. N. said, was the principal reason which induced the managers to recommend that the House should recede. There were other reasons, of a very powerful nature, which it was not necessary for him to state.

Mr. SMILIE declared himself in favor of receding, as he wished the bill passed, under the conviction that without the proposed new section, it would provide for the people of Louisiana a better government than they at present enjoyed.

Mr. ALSTON observed, that in consequence of a limitation in the bill, it would expire in one year, which would be antecedent to the time when the contemplated Legislative Council, as eligible by the people, would be organized. He was therefore in favor of receding.

The question was then taken by yeas and nays on receding from the first amendment, and carried in the affirmative—yeas 51, nays 45, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, Simeon Baldwin, David Bard, Walter Bowie, Adam Boyd, Robert Brown, Joseph Bryan, John Campbell, Thomas Claiborne, Joseph Clay, Jacob Crowninshield, John B. Earle, Peter Early, William Findley, John Fowler, Jas. Gillespie, Thomas Griffin, Samuel Hammond, Josiah Hasbrouck, James Holland, David Holmes, Benj. Huger, Walter Jones, Nehemiah Knight, Andrew McCord, William McCreery, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Thomas Moore, Thomas Newton, jr., Joseph H. Nicholson, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Jacob Richards, Thos. Sammons, Thomas Sandford, John Smilie, John Smith

of Virginia, Henry Southard, Joseph Stanton, John Stewart, Samuel Tenney, David Thomas, Philip R. Thompson, Isaac Van Horne, Matthew Walton, Richard Winn, and Joseph Winston.

NAYS—John Archer, George Michael Bedinger, Silas Betton, William Blackledge, William Chamberlin, Martin Chittenden, Clifton Claggett, Matthew Clay, John Clopton, John Davenport, John Dawson, Thomas Dwight, James Elliot, Ebenezer Elmer, Gaylord Griswold, Roger Griswold, Seth Hastings, Joseph Heister, William Hoge, David Hough, William Kennedy, Michael Leib, Joseph Lewis, jr., Henry W. Livingston, Matthew Lyon, David Meriwether, Nahum Mitchell, Jeremiah Morrow, Anthony New, Gideon Olin, Beriah Palmer, John Patterson, Thomas Plater, Ebenezer Seaver, Tompson J. Skinner, James Sloan, John Cotton Smith, Richard Stanford, William Stedman, Samuel Taggart, Samuel Thatcher, Killian K. Van Rensselaer, Joseph B. Varnum, Lemuel Williams, and Marmaduke Williams.

The managers further recommended that the House should insist on their amendment declaring null all grants subsequent to the Treaty of St. Ildefonso, with an amendment saving *bona fide* grants to a certain extent, made to actual settlers.

Mr. R. GRISWOLD said he should vote against the amendment, with the view of afterwards voting against insisting on the original amendment.

Mr. NICHOLSON and Mr. SMILIE said a few words in favor of agreeing to the amendment, when the question was taken on concurring with the report of the managers, and carried—yeas 54.

A message was received from the Senate, stating their agreement to the report of the committee of conference on the Louisiana bill, which was consequently passed.

[It may not be unsatisfactory here to state that the bill, as finally passed, is limited in duration to one year from the first day of October next, (when it is to take effect) and thence to the end of the next session of Congress. It directs the appointment by the President of a Governor, to hold his office for four years; the appointment annually of a Legislative Council, composed of inhabitants of Louisiana, and the appointment of judges. It will be perceived that the principle of the Senate, withholding for the present the right of suffrage from the people of Louisiana, prevailed, subject, however, to the limitation of time introduced in the bill by the House of Representatives.]

## EXTINGUISHMENT OF DEBTS.

Mr. CLAIBORNE called up the bill making further provision for extinguishing debts due by the United States.

Mr. LEIB said he was friendly to the principle of the bill, but despaired, from the late period of the session, of its passage; he therefore moved its postponement to the first Monday of December.

Mr. ELMER expressed a coincidence of sentiment with Mr. LEIB.

Mr. CLAIBORNE said, it was well known to the House that he was friendly to the bill; he was, however, sensible it was too late to act upon it during the present session. His only wish there-

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fore, at this time, was to put the bill in such a respectful situation as would recommend it to the early attention of Congress at their next session. He therefore acquiesced in the postponement.

The motion of postponement was then carried without a division.

#### PUNISHMENT OF CRIMES.

The House went into a Committee of the Whole on the bill from the Senate, to punish certain crimes against the United States.

The first section of the bill was read. It provides for the punishing with death, any person who shall willfully burn, sink, or destroy any vessel.

Mr. LEIB moved to strike out "with death," and to insert, "by imprisonment not exceeding fourteen years."

This amendment gave rise to a debate of some interest and length, on the comparative advantages of sanguinary and mild punishments, and on the relative magnitude of the offence, the punishment of which was under consideration.

Messrs. LEIB, SMILIE, J. CLAY, ELMER, and STANTON supported, and Messrs. NICHOLSON, HOLLAND, GRISWOLD, SOUTHARD, THATCHER, and MACON opposed the amendment, which, on the question being taken, was negatived—yeas 32.

#### DISTRICT OF COLUMBIA.

Mr. DAWSON moved that the House should resolve itself into a Committee of the Whole on the resolutions offered by him, for the recession of the District of Columbia.

Mr. HUGER said this point had been fully and ably investigated the last session. He did not expect, after the decision then made, that the House would have been again called upon to discuss it. He believed the mind of every member was made up respecting it. He hoped, therefore, the House would not agree to go into Committee.

Mr. J. LEWIS said he should vote against the House resolving itself into a Committee of the Whole, and should that motion be negatived, he would move to discharge the Committee of the Whole from all further consideration of the resolutions. The question was taken on going into Committee, and lost—Yeas 20.

Mr. J. LEWIS then moved to discharge the Committee. This motion was carried without debate—yeas 53, embracing a great majority of the members present.

#### INDIANA TERRITORY.

The House went into Committee of the Whole on the bill making an addition to the salaries of the Governor, Judges, and Secretary, of the Indiana Territory.

The bill adds to the salary of the Governor, \$500; to that of the Judges, \$400; and to that of the Secretary, \$375, for two years from the first of October next.

Mr. EARLY spoke in favor of the bill, on the ground that, by the annexation of Louisiana to the Indiana Territory, the duties of these officers were greatly increased.

Mr. LYON opposed the bill, and moved to amend

it by striking out the additional compensation allowed to the Governor.

Messrs. LEIB and CLAY advocated the amendment, when the question was taken on Mr. LYON's motion, and carried—yeas 51.

Mr. MACON moved to strike out, "to the Judges, each \$400." He observed that it was an incorrect procedure to give Judges a temporary salary.

Mr. MORROW opposed the motion, which was then agreed to—yeas 47.

The Committee then rose and reported progress, when leave was refused to them to sit again, and the bill was then postponed to the first Monday of December.

#### SATURDAY, March 24.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels,' with several amendments; to which they desire the concurrence of this House.

Mr. NICHOLSON, from the committee to whom was committed, on the twenty-first instant, the bill sent from the Senate, entitled "An act for the relief of William A. Barron," made a report thereon; which was read and considered: Whereupon,

*Resolved*, That the further consideration of the said bill be postponed until the first Monday in November next.

An engrossed bill supplementary to an act, entitled "An act to make provision for persons that have been disabled by known wounds received in the actual service of the United States during the Revolutionary war," was read the third time and passed.

Mr. NICHOLSON, from the committee to whom were referred, on the twenty-third instant, the amendments proposed by the Senate to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," made a report thereon; which was read and considered: Whereupon,

*Resolved*, That this House doth agree to all the amendments of the Senate to the said bill, except the twenty-fourth and twenty-fifth of the said amendments, which were, on the question severally put thereupon, disagreed to by the House.

Mr. VARNUM, from the committee appointed on the part of this House to attend a conference with the Senate on the subject-matter of the sixteenth amendment, depending between the two Houses, to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes," made a report thereon; which was read, and ordered to lie on the table.

The House proceeded to consider the amendments of the Senate to the bill, entitled "An act to amend the act, entitled 'An act concerning the registering and recording of ships and vessels.'" Whereupon,

*Resolved*, That this House doth agree to the said amendments.

On motion, it was

*Resolved*, That the order of the day for the



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House to resolve itself into a Committee of the Whole on the bill to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers, be postponed until the first Monday in November next.

The House proceeded to consider a motion of the seventeenth instant, relative to "the expediency of providing by law for exhibiting and registering all evidences of title and claims for land within the territories ceded by the French Republic to the United States, by the treaty of the thirtieth of April, 1803," which lay on the table: Whereupon,

*Ordered*, That the further consideration of the said motion be postponed until the first Monday in November next.

A message from the Senate informed the House that the Senate insist on their sixteenth amendment, disagreed to by this House, to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" and desire a farther conference with this House on the subject-matter of the said amendment; to which farther conference the Senate have appointed managers on their part. The Senate recede from their twenty-fourth amendment to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes;" and they do insist on their twenty-fifth amendment to the said bill. The Senate desire a conference with this House on the subject-matter of the said twenty-fifth amendment, and have appointed managers at the said conference on their part.

The House proceeded to reconsider the sixteenth amendment of the Senate to the bill, entitled "An act further to alter and establish certain post roads, and for other purposes;" as also, to consider the report of the joint committee of conference, made this day, on the subject-matter thereof: Whereupon,

*Resolved*, That this House doth adhere to their disagreement to the said sixteenth amendment.

A message from the Senate, informed the House that the Senate have passed a bill, entitled "An act for the relief of Moses Young;" to which they desire the concurrence of this House.

The SPEAKER laid before the House a letter and report from the Secretary of the Treasury, accompanied with two statements, marked A and B, respecting the "moneys which, since the establishment of the present Government, have been paid as fees to assistant counsel, and for legal advice in the business of the United States;" prepared in pursuance of a resolution of this House, of the third instant; which were read, and ordered to lie on the table.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act concerning the public buildings in the City of Washington," with an amendment; to which they desire the concurrence of this House.

The bill sent from the Senate, entitled "An act for the relief of Moses Young;" was read twice and committed to the Committee of Claims.

The House went into a Committee of the

Whole on the bill from the Senate, authorizing the payment of \$2,800 to Philip Sloan.

The Committee rose and reported their agreement to the bill; which the House ordered to a third reading, and passed—yeas 66.

The House resolved itself into a Committee of the Whole on the bill, sent from the Senate, entitled "An act to make further appropriations for the purpose of extinguishing the Indian claims;" and, after some time spent therein, the bill was reported without amendment.

The said bill was then read the third time and passed.

Mr. NICHOLSON, from the managers appointed on the part of this House, to attend a conference with the Senate, on the subject-matter of the twenty-fifth amendment, disagreed to by this House, and insisted on by the Senate, to the bill, entitled "An act making provision for the disposal of the public lands in the Indiana Territory, and for other purposes," made a report thereon; which was read, and considered: Whereupon,

*Resolved*, That this House doth insist on their disagreement to the said twenty-fifth amendment to the bill.

#### ACCOUNTS OF DEPARTMENTS.

The House went into a Committee of the Whole on the bill from the Senate, to amend the laws providing for the organization of the accounting offices of the Treasury, War and Navy Departments.

Mr. DANA observed that this appeared to be a bill for the revival of the office of Commissioner of Loans. This might be necessary; but as there had been no report on the subject, he was not prepared to say that the measure was necessary.

Mr. NICHOLSON called for the reading of the report of the Committee of Ways and Means and an accompanying letter from the Secretary of the Treasury, which were read.

The Committee rose and reported the bill.

The House immediately took it up, and ordered it to a third reading. The bill was accordingly read the third time, and on the question whether the same shall pass?

Mr. CONRAD desired the taking of the yeas and nays. Mr. C. said that he had expected a very different bill from the present, in consequences of the resolutions entered into by the House at an early stage of the session. It was then generally expected that two offices would be abolished; it now appeared that it was contemplated to create a new office. He trusted the bill would not pass.

The question was then taken on the passage of the bill, by yeas and nays, and passed in the negative—yeas 42. nays 44, as follows:

YEAS—Willis Alston, jr., John Archer, David Bard, William Blackledge, Adam Boyd, Joseph Bryan, George W. Campbell, Matthew Clay, Jacob Crowninshield, Richard Cutts, John B. Earle, Peter Early, William Findley, John Fowler, James Gillespie, Josiah Hasbrouck, William Helms, David Holmes, Benjamin Huger, John G. Jackson, Walter Jones, Nehemiah Knight, Joseph Lewis, jr., William McCreery, Samuel L. Mitchell, Andrew Moore, Nicholas R. Moore, Jere-

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miah Morrow, Thomas Newton, jun., Joseph H. Nicholson, Samuel D. Purviance, John Randolph, Thomas M. Randolph, Thomas Sandford, Tompson J. Skinner, James Sloan, John Smilie, John Smith of Virginia, Joseph Stanton, Philip R. Thompson, Matthew Walton, and Richard Winn.

**YAYS**—Isaac Anderson, George Michael Bedinger, Silas Betton, Walter Bowie, Robert Brown, William Chamberlin, Clifton Claggett, John Clopton, Frederick Conrad, Manasseh Cutler, Samuel W. Dana, William Dickson, Thomas Dwight, James Elliot, Ebenezer Elmer, Thomas Griffin, Gaylord Griswold, Seth Hastings, Joseph Heister, William Hoge, James Holland, David Hough, William Kennedy, Henry W. Livingston, Andrew McCord, David Meriwether, Nahum Mitchell, Thomas Moore, Gideon Olin, Thomas Plater, John Rhea of Tennessee, Jacob Richards, Thomas Sammons, Henry Southard, Richard Stanford, William Stedman, John Stewart, Samuel Taggart, Samuel Tenney, Samuel Thatcher, David Thomas, Isaac Van Horne, Joseph B. Varnum, and Lemuel Williams.

And so the said bill was rejected.

#### PUBLIC BUILDINGS.

The House took up the amendment proposed by the Senate, to the bill entitled "An act concerning the public buildings at the City of Washington:" Whereupon, the said amendment being twice read, to strike out in the fourth, fifth, and sixth lines of the original bill, the following words, to wit: "proceeding with the public buildings at the City of Washington, and in making such necessary improvements and repairs thereon, as he shall deem expedient:" and to insert, in lieu thereof, the following words, "finishing the President's House in such manner as will accommodate both Houses of Congress; and for the purpose of renting, purchasing, or building a suitable house for the accommodation of the President:"

Messrs. J. RANDOLPH, and SLOAN supported; and Messrs. LEWIS, SMILIE, DAWSON, CLAIBORNE, and ELMER opposed this amendment; when the question was taken by yeas and nays on agreeing to it and passed in the negative—yeas 27, nays 76, as follows:

**YEAS**—Isaac Anderson, David Bard, George W. Campbell, Matthew Clay, Frederick Conrad, Jacob Crowninshield, Richard Cutts, William Findley, John Fowler, Gaylord Griswold, Josiah Hasbrouck, Joseph Heister, William Hoge, James Holland, Andrew McCord, David Meriwether, John Patterson, John Randolph, John Rea of Pennsylvania, John Rhea of Tennessee, Erastus Root, James Sloan, Richard Sandford, John Stewart, Isaac Van Horne, Matthew Walton, and Joseph Winston.

**NAYS**—Willis Alston, jr., John Archer, Simeon Baldwin, George Michael Bedinger, Silas Betton, William Blackledge, Walter Bowie, Adam Boyd, Robert Brown, Joseph Bryan, John Campbell, William Chamberlin, Martin Chittenden, Clifton Claggett, Thomas Claiborne, John Clopton, Manasseh Cutler, Samuel W. Dana, John Davenport, John Dawson, William Dickson, Thomas Dwight, John B. Earle, Peter Early, James Elliot, Ebenezer Elmer, James Gillespie, Thos. Griffin, Roger Griswold, John A. Hanna, Seth Hastings, William Helms, David Holmes, David Hough, Benjamin Huger, John G. Jackson, Walter Jones, William Kennedy, Nehemiah Knight, Joseph Lewis, jun., Henry W. Livingston, Matthew Lyon, William

McCreery, Nahum Mitchell, Samuel L. Mitchell, Andrew Moore, Thomas Moore, Jeremiah Morrow, Anthony New, Thomas Newton jr., Joseph H. Nicholson, Gideon Olin, Beriah Palmer, Thomas Plater, Samuel D. Purviance, Thomas M. Randolph, Jacob Richards, Thomas Sammons, Thos. Sandford, Tompson J. Skinner, John Smilie, John Cotton Smith, John Smith of Virginia, Henry Southard, Joseph Stanton, William Stedman, Samuel Taggart, Samuel Tenney, Samuel Thatcher, Philip R. Thompson, Killian K. Van Rensselaer, Joseph B. Varnum, Peleg Wadsworth, Lemuel Williams, Marmaduke Williams, and Richard Winn.

*Ordered*, That this House doth disagree to the said amendment.

MONDAY, March 26.

A message from the Senate informed the House that the Senate insist on their amendment, disagreed to by this House, to the bill, entitled "An act concerning the public buildings at the City of Washington;" and desire a conference thereon with this House; to which they have appointed managers on their part.

*Ordered*, That the committee who were directed by a resolution of this House, of the twenty-fourth of November last, "to inquire into the expediency of amending the several acts providing for the sale of the public lands of the United States," to whom were referred, during the present session, the petitions and memorials of sundry inhabitants of Fairfield county, in the State of Ohio; of Zaccheus Biggs, and others, receivers of public moneys; of sundry citizens residing between the Great and Little Miami rivers, in the State of Ohio; of sundry inhabitants of the said State of Ohio; of sundry inhabitants of the counties of Knox, St. Clair, and Randolph, in the Indiana Territory of the United States; of sundry claimants to lands between the Great and Little Miamia rivers, and above what is usually termed Ludlow's line, in the State of Ohio; of sundry citizens claiming the right of pre-emption to certain lands in the Miamia country, within and above said Ludlow's line; of sundry inhabitants of Claiborne county, in the Mississippi Territory of the United States; and, also, the affidavits and certificates of Jonathan Donnalld, and others, in opposition to the prayer of a petition presented the eighteenth of January last; be discharged from the consideration of the same.

Mr. JOHN C. SMITH, from the Committee of Claims, to whom was committed, on the twenty-fourth instant, the bill sent from the Senate, entitled "An act for the relief of Moses Young," reported that the committee had, according to order, had the said bill under consideration, and directed him to report to the House their agreement to the same: Whereupon, the bill was read the third time, and passed.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes,'" with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the said

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amendment of the Senate; and the same being twice read, was disagreed to by the House.

*Ordered*, That the Committee of the whole House to whom were committed, on the eleventh of January last, the bill sent from the Senate, entitled "An act to authorize the sale of the frigate General Greene, and a further addition to the naval armament of the United States, and a report of the Committee of Commerce and Manufactures thereon, be discharged therefrom; and that the farther consideration of the said bill and report be postponed until the first Monday in November next.

*Ordered*, That the farther consideration of the bill, entitled "An act for the further protection of the seamen and commerce of the United States," together with the amendments proposed by the Senate thereto, on the twenty-eighth of November last, be postponed until the first Monday in November next.

*Resolved*, That this House doth agree to the conference desired by the Senate on the subject-matter of their amendment to the bill, entitled "An act concerning the Public Buildings at the City of Washington;" and that Mr. J. LEWIS, jun., Mr. VARNUM, and Mr. JOHN CAMPBELL, be appointed managers at the said conference, on the part of this House.

#### IMPEACHMENT OF JUDGE CHASE.

Mr. JOHN RANDOLPH, from the committee appointed on the thirteenth instant, to prepare and report articles of impeachment against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, made a report thereon; which was read, as follows:

Report of the committee appointed to prepare articles of impeachment against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States.

Articles exhibited by the House of Representatives of the United States, in the name of themselves and of all the people of the United States, against Samuel Chase, one of the Associate Justices of the Supreme Court of the United States, in maintenance and support of their impeachment against him, for high crimes and misdemeanors.

ARTICLE 1. That, unmindful of the solemn duties of his office, and contrary to the sacred obligation by which he stood bound to discharge them "faithfully and impartially, and without respect to persons," the said Samuel Chase, on the trial of John Fries, charged with treason, before the circuit court of the United States, held for the district of Pennsylvania, in the city of Philadelphia, during the months of April and May, one thousand eight hundred, whereat the said Samuel Chase presided, did, in his judicial capacity, conduct himself in a manner highly arbitrary, oppressive, and unjust, viz:

1. In delivering an opinion in writing, on the question of law, on the construction of which the defence of the accused materially depended, tending to prejudice the minds of the jury against the case of the said John Fries, the prisoner, before counsel had been heard in his defence.

2. In restricting the counsel for the said Fries from recurring to such English authorities as they believed apposite, or from citing certain statutes of the United

States, which they deemed illustrative of the positions, upon which they intended to rest the defence of their client.

3. In debarring the prisoner from his Constitutional privilege of addressing the jury (through his counsel) on the law, as well as on the fact, which was to determine his guilt, or innocence, and at the same time endeavoring to wrest from the jury their indisputable right to hear argument, and determine upon the question of law, as well as the question of fact, involved in the verdict which they were required to give.

ART. 2. That, in consequence of this irregular conduct of the said Samuel Chase, as dangerous to our liberties as it is novel to our laws and usages, the said John Fries was deprived of the right, secured to him by the eighth article amendatory of the Constitution, and was condemned to death without having been heard, by counsel, in his defence, to the disgrace of the character of the American bench, in manifest violation of law and justice, and in open contempt of the rights of juries, on which ultimately rest the liberty and safety of the American people.

ART. 3. That, prompted by a similar spirit of persecution and injustice, at a circuit court of the United States, held at Richmond, in the month of May, 1800, for the district of Virginia, whereat the said Samuel Chase presided, and before which a certain James Thompson Callender was arraigned for a libel on John Adams, then President of the United States, the said Samuel Chase, with intent to oppress and procure the conviction of the said Callender, did overrule the objection of John Basset, one of the jury, who wished to be excused from serving on the trial, because he had made up his mind as to the publication from which the words, charged to be libellous, in the indictment, were extracted; and the said Basset was accordingly sworn, and did serve on the said jury.

ART. 4. That the evidence of John Taylor, a material witness on behalf of the aforesaid Callender, was not permitted by the said Samuel Chase to be given in, because the said witness could not prove the truth of the whole of one of the charges contained in the indictment, although the said charge embraced more than one fact.

ART. 5. That the conduct of the said Samuel Chase was marked, during the whole course of the said trial, by manifest injustice, partiality, and intemperance, viz:

1. In refusing to postpone the trial, although an affidavit was regularly filed, stating the absence of material witnesses on behalf of the accused.

2. In the use of unusual, rude, and contemptuous expressions towards the prisoner's counsel; and in insinuating that they wished to excite the public fears and indignation, and to produce that insubordination to law to which the conduct of the judge did at the same time manifestly tend.

3. In repeated and vexatious interruptions of the said counsel, on the part of the said judge, which at length induced them to abandon their cause and their client, who was thereupon convicted and condemned to fine and imprisonment.

4. In an indecent solicitude, manifested by the said Samuel Chase, for the conviction of the accused, unbecoming even a public prosecutor, but highly disgraceful to the character of a judge, as it was subversive of justice.

ART. 6. That, at a circuit court of the United States, for the district of Delaware, held at Newcastle, in the month of June, one thousand eight hundred, whereat

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the said Samuel Chase presided—the said Samuel Chase, disregarding the duties of his office, did descend from the dignity of a judge and stoop to the level of an informer, by refusing to discharge the grand jury, although entreated by several of the said jury so to do; and after the said grand jury had regularly declared, through their foreman, that they had found no bills of indictment, nor had any presentments to make, by observing to the said grand jury, that he, the said Samuel Chase, understood “that a highly seditious temper had manifested itself in the State of Delaware, among a certain class of people, particularly in Newcastle county, and more especially in the town of Wilmington, where lived a most seditious printer, unrestrained by any principle of virtue, and regardless of social order—that the name of this printer was”—but checking himself, as if sensible of the indecorum which he was committing, added, “that it might be assuming too much to mention the name of this person, but it becomes your duty, gentlemen, to inquire diligently into this matter;” and that with intention to procure the prosecution of the printer in question, the said Samuel Chase did, moreover, authoritatively enjoin on the District Attorney of the United States the necessity of procuring a file of the papers to which he alluded, (and which were understood to be those published under the title of “*Mirror of the Times and General Advertiser*,”) and by a strict examination of them to find some passage which might furnish the ground-work of a prosecution against the printer of the said paper; thereby degrading his high judicial functions, and tending to impair the public confidence in, and respect for, the tribunals of justice, so essential to the general welfare.

ART. 7. And whereas mutual respect and confidence between the Government of the United States and those of the individual States, and between the people and those Governments, respectively, are highly conducive to that public harmony, without which there can be no public happiness, yet the said Samuel Chase, disregarding the duties and dignity of his judicial character, did, at a circuit court, for the district of Maryland, held at Baltimore, in the month of May, one thousand eight hundred and three, pervert his official right and duty to address the grand jury then and there assembled, on the matters coming within the province of the said jury, for the purpose of delivering to the said grand jury an intemperate and inflammatory political harangue, with intent to excite the fears and resentment of the said grand jury, and of the good people of Maryland, against their State government and constitution—a conduct highly censurable in any, but peculiarly indecent and unbecoming in a judge of the Supreme Court of the United States; and, moreover, that the said Samuel Chase, then and there, under pretence of exercising his judicial right to address the said grand jury, as aforesaid, did, in a manner, highly unwarrantable, endeavor to excite the odium of the said grand jury, and of the good people of Maryland, against the Government of the United States, by delivering opinions, which, even if the judicial authority were competent to their expression, on a suitable occasion and in a proper manner, were at that time, and as delivered by him, highly indecent, extra judicial, and tending to prostrate the high judicial character with which he was invested to the low purpose of an electioneering partisan.

And the House of Representatives, by protestation, saving to themselves the liberty of exhibiting at any

time hereafter any farther articles, or other accusation or impeachment against the said Samuel Chase, and also of replying to his answers which he shall make unto the said articles, or any of them, and offering proof to all and every the aforesaid articles, and to all and every other article, impeachment, or accusation, which shall be exhibited by them, as the case shall require, do demand that the said Samuel Chase may be put to answer the said crimes and misdemeanors, and that such proceedings, examinations, trials, and judgments, may be thereupon had and given, as are agreeable to law and justice.

*Ordered*, That the said report be printed for the use of the members of both Houses; and that the Clerk of this House be directed to transmit to each of the members of the two Houses of Congress, a copy of the said report, as soon as the same shall be printed.

*Ordered*, That there be a call of the House tomorrow morning at eleven o'clock.

The House adjourned until four o'clock, post meridian.

*Four o'clock, p. m.*

A message from the Senate informed the House that the Senate have passed a resolution, that the resolution of the two Houses authorizing the President of the Senate and Speaker of the House of Representatives to adjourn their respective Houses on this day, be rescinded; and that the said President and Speaker of the House of Representatives be authorized to close the present session, by adjourning their respective Houses on Tuesday, the 27th of this month; to which they desire the concurrence of this House. The Senate adhere to their amendment, disagreed to by this House to the bill, entitled “An act supplementary to the act, entitled ‘An act providing for a Naval Peace Establishment, and for other purposes.’”

The House proceeded to consider the resolution of the Senate to rescind the resolution of both Houses, of the thirteenth instant, for an adjournment of the two Houses of Congress, on this day; and authorizing the President of the Senate and Speaker of the House of Representatives, to close the present session, by adjourning their respective Houses on Tuesday the 27th of the present month: Whereupon,

*Resolved*, That this House doth agree to the said resolution of the Senate.—Yeas 49, nays 44, as follows:

YEAS—Willis Alston, jun., Isaac Anderson, John Archer, George Michael Bedinger, Walter Bowie, Joseph Bryan, George W. Campbell, John Campbell, Thomas Claiborne, Joseph Clay, Matthew Clay, Richard Cutts, John Dawson, William Dickson, Peter Early, William Findley, James Gillespie, William Helms, David Holmes, Walter Jones, Nehemiah Knight, Joseph Lewis, jr., Matthew Lyon, William McCreery, Andrew Moore, Nicholas R. Moore, Jeremiah Morrow, Anthony New, jr., Thos. Newton, Joseph H. Nicholson, Samuel D. Purviance, John Randolph, Thomas M. Randolph, John Rhea of Tennessee, Erastus Root, Thomas Sammons, Thos. Sanford, Tompson J. Skinner, John Smilie, John Smith of Virginia, Henry Southard, Joseph Stanton, James Stephenson, David Thomas, Philip R.

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Thompson, Philip Van Cortlandt, Peleg Wadsworth, Marmaduke Williams, and Joseph Winston.

Nars—Simeon Baldwin, David Bard, Silas Betton, William Blackledge, Adam Boyd, Robert Brown, William Chamberlin, Martin Clittenden, Clifton Claggett, John Clopton, Frederick Conrad, Jacob Crowninshield, Manasseh Cutler, Samuel W. Dana, John Davenport, Thomas Dwight, James Elliot, Ebenezer Elmer, Gaylord Griswold, Roger Griswold, John A. Hanna, Josiah Hasbrouck, William Hoge, David Hough, William Kennedy, Michael Leib, Henry W. Livingston, Andrew McCord, David Meriwether, Nahum Mitchell, Gideon Olin, Thomas Plater, John Rhea of Pennsylvania, Jacob Richards, James Sloan, John Cotton Smith, Richard Stanford, William Stedman, John Stewart, Samuel Tenney, Samuel Thatcher, Killian K. Van Rensselaer, Joseph B. Varnum, and Lemuel Williams.

The House proceeded to reconsider the amendment disagreed to by this House, and adhered to by the Senate, to the bill, entitled "An act supplementary to the act, entitled 'An act providing for a Naval Peace Establishment, and for other purposes: Whereupon,

*Resolved*, That this House doth recede from their disagreement to the said amendment.

TUESDAY, March 27.

*Resolved*, That the Clerk of this House be allowed, out of the contingent fund of the House, the sum of three hundred dollars, for extra services during the present session.

*Resolved*, That the Clerk of this House be authorized and directed to pay, out of the moneys appropriated to defray the contingent expenses of the House, to the principal and engrossing clerks in the office of the Clerk of the House, respectively, two hundred dollars each, for their extra services during the present session; also, to the Sergeant-at-Arms, to the Doorkeeper, and Assistant Doorkeeper, two hundred dollars each, in addition to their present allowance; and also, fifty dollars to Alexander Claxton, out of the contingent fund of the House.

*Resolved*, That the Clerk of this House be authorized and directed to pay, out of the moneys appropriated to defray the contingent charges of this House, to the Chaplain of this House, one hundred and fifty dollars, in addition to his present allowance.

A message from the Senate informed the House that the Senate have passed the bill, entitled "An act for imposing more specific duties on the importation of certain articles, and also for levying and collecting light-money on foreign ships or vessels;" to which they desire the concurrence of this House: the bill, entitled "An act for the appointment of an additional Judge of the Mississippi Territory, and for other purposes," with an amendment; to which they desire the concurrence of this House: the bill, entitled "An act authorizing the appointment of commissioners to explore the routes most eligible for opening certain public roads," with several amendments; to which they desire the concurrence of this House: the bill, entitled "An act supplementary to the act, entitled, 'An act regulating the grants of land,

and providing for the disposal of the public lands south of the State of Tennessee," with several amendments; to which they desire the concurrence of this House: also, the bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington,' with an amendment; to which they desire the concurrence of this House.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act for imposing more specific duties on the importation of certain articles, and also for levying and collecting light-money on foreign ships or vessels:" Whereupon,

*Resolved*, That this House doth agree to the said amendments.

Mr. JOSEPH LEWIS, jr., from the managers appointed the 26th instant, on the part of this House, to attend a conference with the Senate on the subject-matter of the amendment depending between the two Houses to the bill, entitled "An act concerning the Public Buildings at the City of Washington," made a report thereon; which was read, and ordered to lie on the table.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act for the appointment of an additional Judge for the Mississippi Territory, and for other purposes:" Whereupon,

*Resolved*, That this House doth agree to the said amendment.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act authorizing the appointment of Commissioners to explore the routes most eligible for opening certain public roads:" Whereupon,

*Resolved*, That the farther consideration of the said bill and amendments be postponed until the first Monday in December next.

The House proceeded to consider the amendments proposed by the Senate to the bill, entitled "An act regulating the grants of land, and providing for the disposal of the public lands south of the State of Tennessee:" Whereupon,

*Resolved*, That this House doth agree to the said amendments.

The House proceeded to consider the amendment proposed by the Senate to the bill, entitled "An act supplementary to the act, entitled 'An act concerning the City of Washington:'" Whereupon,

*Resolved*, That this House doth agree to the said amendment.

*Resolved*, That the Clerk of this House be authorized and directed to pay, out of the contingent fund of the House, to John Phillips, a laborer employed by the Doorkeeper to attend the committee rooms and Clerk's office, the sum of fifty dollars, in addition to his present allowance.

A message from the Senate informed the House that the Senate have passed a bill, entitled "An act to provide for a more extensive distribution of the laws of the United States; to which they desire the concurrence of this House.

The said bill was read twice, and committed to a Committee of the Whole immediately.

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The House accordingly resolved itself into the said Committee; and, after some time spent therein, the bill was reported with an amendment; which was twice read, and agreed to by the House.

*Ordered*, That the said bill, with the amendment, be now read the third time. The bill, as amended, was accordingly read the third time, and passed.

*Resolved*. That Mr. JOHN RANDOLPH and Mr. SAMUEL L. MITCHILL be appointed a committee, on the part of this House, jointly with such committee as may be appointed on the part of the Senate, to wait on the President of the United States, and notify him of the proposed recess of Congress.

*Resolved*, That the Clerk of this House be authorized and directed to pay, out of the contingent fund of the House, to Job Pearce and William Ewing, employed by the Doorkeeper during the present session, the sum of forty-nine dollars each, in addition to their present allowance.

*Ordered*, That the call of the House, directed to be at eleven o'clock in the morning, on this day, be postponed until half-past four o'clock, post meridian. Adjourned until half-past four, P. M.

*Half-past four o'clock, p. m.*

*Resolved*, That the Clerk of this House do pay to William, the wood-carrier, thirty-five dollars, out of the money appropriated for the contingent expenses of this House.

Mr. JOHN RANDOLPH, from the committee appointed on the part of this House, jointly with the committee appointed on the part of the Senate, to wait on the President of the United States and notify him of the proposed recess of Congress, reported that the committee had performed that service; and that the President signified to them he had no farther communication to make during the present session.

*Ordered*, That a message be sent to the Senate to inform them that this House, having completed the business before them, are now about to adjourn until the first Monday in November next; and that the Clerk of this House do go with the said message.

A message from the Senate informed the House that the Senate, having completed the Legislative business before them, are now ready to adjourn. Whereupon the SPEAKER adjourned the House until the first Monday in November next.

# PUBLIC ACTS OF CONGRESS;

PASSED AT THE FIRST SESSION OF THE EIGHTH CONGRESS, BEGUN AND HELD  
AT THE CITY OF WASHINGTON, OCTOBER 17, 1803.

AN ACT to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth of April last, and for the temporary government thereof.

*Be it enacted by the Senate and House of Representatives of the United States of America, in Congress assembled,* That the President of the United States be, and he is hereby, authorized to take possession of, and occupy the territories ceded by France to the United States, by the treaty concluded at Paris on the thirtieth day of April last, between the two nations, and that he may for that purpose, and in order to maintain in the said territories the authority of the United States, employ any part of the army or navy of the United States, and of the force authorized by an act passed the third day of March last, entitled "An act directing a detachment from the militia of the United States, and for erecting certain arsenals," which he may deem necessary; and so much of the sum appropriated by the said act as may be necessary, is hereby appropriated for the purpose of carrying this act into effect; to be applied under the direction of the President of the United States.

SEC. 2. *And be it further enacted,* That until the expiration of the present session of Congress, unless provision for the temporary government of the said territories be sooner made by Congress, all the military, civil, and judicial powers exercised by the officers of the existing government of the same, shall be vested in such person and persons, and shall be exercised in such manner, as the President of the United States shall direct, for maintaining and protecting the inhabitants of Louisiana in the free enjoyment of their liberty, property, and religion.

NATHL. MACON,

*Speaker of the House of Representatives.*

JOHN BROWN,

*President of the Senate, pro tempore.*

Approved, October 31, 1803.

An Act authorizing the creation of a stock to the amount of eleven millions two hundred and fifty thousand dollars, for the purpose of carrying into effect the convention of the thirtieth of April, one thousand eight hundred and three, between the United States of America and the French Republic, and making provision for the payment of the same.

*Be it enacted, &c.,* That, for the purpose of carrying into effect the convention of the thirtieth day of April, one thousand eight hundred and three,

between the United States of America and the French Republic, the Secretary of the Treasury be, and he is hereby, authorized to cause to be constituted certificates of stock, signed by the Register of the Treasury, in favor of the French Republic, or of its assignees, for the sum of eleven millions two hundred and fifty thousand dollars, bearing an interest of six per centum per annum, from the time when possession of Louisiana shall have been obtained, in conformity with the treaty of the thirtieth day of April, one thousand eight hundred and three, between the United States of America and the French Republic, and in other respects conformable with the tenor of the convention aforesaid; and the President of the United States is authorized to cause the said certificates of stock to be delivered to the Government of France, or to such person or persons as shall be authorized to receive them, in three months, at most, after the exchange of ratifications of the treaty aforesaid, and after Louisiana shall be taken possession of in the name of the Government of the United States; and credit or credits to the proprietors thereof shall thereupon be entered and given on the books of the Treasury in like manner as for the present funded debt; which said credits or stock shall thereafter be transferable only on the books of the Treasury of the United States, by the proprietor or proprietors of such stock, his, her, or their attorney; and the faith of the United States is hereby pledged for the payment of the interest, and for the reimbursement of the principal of said stock, in conformity with the provisions of the said convention: *Provided, however,* That the Secretary of the Treasury may, with the approbation of the President of the United States, consent to discharge the said stock in four equal annual instalments, and also shorten the periods fixed by the convention for its reimbursement: *And provided, also,* That every proprietor of the said stock may, until otherwise directed by law, on surrendering his certificate of such stock, receive another to the same amount, and bearing an interest of six per centum per annum, payable quarterly at the Treasury of the United States.

SEC. 2. *And be it further enacted,* That the annual interest accruing on the said stock, which may, in conformity with the convention aforesaid, be payable in Europe, shall be paid at the rate of four shillings and six pence sterling for each dollar, if payable in London, and at the rate of two guilders and one-half a guilder, current



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money of Holland, for each dollar, if payable in Amsterdam.

SEC. 3. *And be it further enacted*, That a sum equal to what will be necessary to pay the interest which may accrue on the said stock to the end of the present year, be, and the same is hereby appropriated for that purpose, to be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That, from and after the end of the present year, (in addition to the annual sum of seven millions three hundred thousand dollars yearly appropriated to the Sinking Fund, by virtue of the act, entitled "An act making provision for the redemption of the whole of the public debt of the United States,") a further annual sum of seven hundred thousand dollars, to be paid out of the duties on merchandise and tonnage, be, and the same hereby is, yearly appropriated to the said fund, making in the whole, an annual sum of eight millions of dollars, which shall be vested in the Commissioners of the Sinking Fund in the same manner, shall be applied by them for the same purposes, and shall be, and continue appropriated, until the whole of the present debt of the United States, inclusively of the stock created by virtue of this act, shall be reimbursed and redeemed, under the same limitations as have been provided by the first section of the above-mentioned act, respecting the annual appropriation of seven millions three hundred thousand dollars made by the same.

SEC. 5. *And be it further enacted*, That the Secretary of the Treasury shall cause the said further sum of seven hundred thousand dollars to be paid to the Commissioners of the Sinking Fund, in the same manner as was directed by the above-mentioned act respecting the annual appropriation of seven millions three hundred thousand dollars; and it shall be the duty of the Commissioners of the Sinking Fund to cause to be applied and paid out of the said fund, yearly, and every year, at the Treasury of the United States, such sum and sums as may be annually wanted to discharge the annual interest and charges accruing on the stock created by virtue of this act, and the several instalments, or parts of principal of the said stock, as the same shall become due and may be discharged, in conformity to the terms of the convention aforesaid, and of this act.

Approved, November 10, 1803.

An Act making provision for the payment of claims of citizens of the United States on the Government of France, the payment of which has been assumed by the United States, by virtue of the Convention of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic.

*Be it enacted, &c.*, That a sum not exceeding three millions seven hundred and fifty thousand dollars, (including a sum of two millions of dollars, appropriated by the act of the twenty-sixth day of February, one thousand eight hundred and three, entitled "An act making further provision

for the expenses attending the intercourse between the United States and foreign nations,") to be paid out of any moneys in the Treasury not otherwise appropriated, be, and the same hereby is, appropriated, for the purpose of discharging the claims of citizens of the United States against the Government of France, the payment of which has been assumed by the Government of the United States, by virtue of a Convention made the thirtieth day of April, one thousand eight hundred and three, between the United States of America and the French Republic, respecting the said claims.

SEC. 2. *And be it further enacted*, That the Secretary of the Treasury shall cause to be paid, at the Treasury of the United States, in conformity to the Convention aforesaid, the amount of such claims, above mentioned, as, under the provisions of the said Convention, shall be awarded to the respective claimants: which payments shall be made on the orders of the Minister Plenipotentiary of the United States for the time being, to the French Republic, in conformity with the Convention aforesaid, and the said Minister shall be charged on the Treasury books with the whole amount of such payments, until he shall have exhibited satisfactory proof, to the accounting officers of the Treasury, that his orders thus paid have been issued in conformity with the provisions of the said Convention.

SEC. 3. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to borrow, on the credit of the United States, to be applied to the purposes authorized by this act, a sum not exceeding one million seven hundred and fifty thousand dollars, at a rate of interest not exceeding six per centum per annum, reimbursable out of the appropriation made by virtue of the first section of this act, at the pleasure of the United States, or at such period, not exceeding five years from the time of obtaining the loan, as may be stipulated by contract; and it shall be lawful for the Bank of the United States to lend the same.

SEC. 4. *And be it further enacted*, That so much of the duties on merchandise and tonnage as may be necessary be, and the same hereby is, appropriated for the purpose of paying the interest which shall accrue on the said loan.

SEC. 5. *And be it further enacted*, That, for defraying the expense incident to the investigation of the claims above-mentioned, there be appropriated a sum not exceeding eighteen thousand five hundred and seventy-five dollars, to be paid out of any moneys in the Treasury not otherwise appropriated: *Provided*, That the compensation to be made to any of the Commissioners appointed, or to be appointed, in pursuance of the above-mentioned Convention, shall not exceed the rate of four thousand four hundred and fifty dollars per annum; that the compensation of their secretary shall not exceed the rate of two thousand two hundred and twenty-five dollars per annum; and that the compensation of the agent shall not exceed the rate of one thousand dollars per annum.

Approved, November 10, 1803.

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An Act making an appropriation for carrying into effect the seventh article of the Treaty of Amity, Commerce, and Navigation, between the United States and His Britannic Majesty.

*Be it enacted, &c.,* That a sum not exceeding fifty thousand dollars, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same hereby is, appropriated for the purpose of carrying into effect the seventh article of the treaty concluded at London on the nineteenth day of November, seventeen hundred and ninety-four, between the United States of America and His Britannic Majesty.

SEC. 2. *And be it further enacted,* That the accounting officers of the Treasury be, and they are hereby, authorized to allow an interest, not exceeding the rate of six per centum per annum, on one third part of the amount of any award made in pursuance of the aforesaid article, and presented at the Treasury previous to the passing of this act, to be calculated from the time when such award shall have been presented.

Approved, November 16, 1803.

An Act to repeal the act, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage.'"

*Be it enacted, &c.,* That the act passed on the fifth day of April, one thousand eight hundred, entitled "An act to allow a drawback of duties on goods exported to New Orleans, and therein to amend the act, entitled 'An act to regulate the collection of duties on imports and tonnage,' be, and the same hereby is, repealed.

Approved, November 25, 1803.

An Act to repeal an act, entitled "An act to establish a uniform system of Bankruptcy throughout the United States."

*Be it enacted, &c.,* That the act of Congress passed on the fourth of April, one thousand eight hundred, entitled "An act to establish a uniform system of Bankruptcy throughout the United States," shall be, and the same is hereby, repealed: *Provided, nevertheless,* That the repeal of the said act shall in no wise affect the execution of any commission of bankruptcy which may have been issued prior to the passing of this act, but every such commission may and shall be proceeded on and fully executed as though this act had not passed.

Approved, December 19, 1803.

An Act making appropriations for the support of the Navy of the United States, during the year one thousand eight hundred and four.

*Be it enacted, &c.,* That, for defraying the expenses of the Navy of the United States, during the year one thousand eight hundred and four, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For the pay and subsistence of the officers, and the pay of the seamen, two hundred and thirty-

four thousand three hundred and twenty-eight dollars.

For provisions, one hundred and twenty-five thousand five hundred and eighteen dollars and seventy-two cents.

For medicine, instruments, hospital stores, and all expenses on account of the sick, four thousand eight hundred and seventy-five dollars.

For repairs of vessels, store rent, and other contingent expenses, one hundred and forty-four thousand dollars.

For the purchase of ordnance, and other military stores, five thousand dollars.

For the expense of navy-yards, docks, and other improvements, the pay of superintendents, storekeepers, clerks, and laborers, fifty-two thousand dollars.

For the pay and subsistence of the marine corps, including provisions for those on shore, and forage for the staff, fifty-seven thousand five hundred and forty-one dollars and eighty cents.

For clothing for the same, twelve thousand eight hundred and fifty-two dollars and seventy-six cents.

For military stores for the same, four hundred and fifty-two dollars.

For medicine, medical services, hospital stores, and all expenses on account of the sick belonging to the marine corps, one thousand dollars.

For quartermaster's and barrackmaster's stores, officers' travelling expenses, armorer's and carpenter's bills, fuel, and other contingent expenses, eight thousand eight hundred and forty-seven dollars.

For completing the marine barracks at the City of Washington, three thousand five hundred and eighty-four dollars and seventy-two cents.

SEC. 2. *And be it further enacted,* That the several sums herein specifically appropriated, shall be paid, first, out of any balance remaining unexpended of former appropriations for the support of the Navy, and secondly, out of any moneys in the Treasury not otherwise appropriated.

Approved, January 31, 1804.

An Act to incorporate the Directors of the Columbian Library Company.

*Be it enacted, &c.,* That Stephen B. Balch, Joseph Nourse, Charles D. Green, John Craven, Francis Lowndes, junior, and George French, and their successors, duly elected or appointed in manner hereinafter directed, be, and they are hereby, made, declared, and constituted a corporation and body politic in law and in fact, to have continuance forever, by the name, style, and title of "The Directors of the Columbian Library Company in Georgetown."

SEC. 2. *And be it further enacted,* That all and singular, the goods and chattels heretofore given, granted, or devised, to the said Library Company, or to any person or persons, for the use thereof, or that may have been purchased for, or on account of the same, be, and the said goods and chattels are hereby vested in, and confirmed to the said corporation: *And further,* That the said corpora-

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tion may take and receive any sum, or sums of money, or any goods or chattels, or other effects of what kind or nature soever, which shall, or may hereafter, be given, granted, or bequeathed unto them by any person or persons, bodies politic or corporate, capable of making such gift or bequest; such money, goods, chattels or other effects to be laid out and disposed of in the purchase of books, maps, charts, drawings, specimens of minerals, fossils, and other natural and artificial productions, calculated to furnish a library and museum, for the use and benefit of the said company, agreeably to the intention of the donors.

SEC. 3. *And be it further enacted*, That the said corporation, by the name, style, and title aforesaid, be, and shall be hereafter forever, able and capable in law, to sue and be sued, plead and be impleaded, answer and be answered unto, defend and be defended, in any court or courts, or other places, and before any judge or judges, justice or justices, or other persons whatsoever within, the District of Columbia or elsewhere, in all, and all manner of suits, actions, complaints, pleas, causes, matters and demands, of whatsoever kind or nature they may be, in as full and effectual a manner, as any other person or persons, bodies politic or corporate, may or can do.

SEC. 4. *And be it further enacted*, That the said corporation shall have full power and authority to make, have, and use, a common seal, with such device and inscription as they shall think proper, and the same to break, alter, and renew at their pleasure, to appoint a treasurer, secretary, and librarian, to assign them their duties, fix their compensation, and remove him or them from office, and appoint another or others in their place, as often as they shall think fit; to make, ordain, establish, and execute such by-laws and ordinances as may be deemed useful to the institution, and the same to alter, amend, or abrogate at pleasure; to fix the price of new shares and annual contributions on each share; to direct how transfers may be made and certified, and judge of the persons proper to be admitted members; to procure by purchase, rent, or otherwise, a suitable place for keeping the library and museum; to appoint the times for keeping the library open, and for taking out and returning books; to fill up vacancies that may happen in their number between two annual meetings; to levy and collect fines and forfeitures, and to determine upon, do, and transact all business and matters appertaining to the said corporation and library company, agreeably to the rules, ordinances, and by-laws thereof, during their continuance in office; *Provided*, That not less than three of the said directors form a quorum to do business; that no by-law, rule, or ordinance, shall be made repugnant to the laws of this District, and that no contribution be laid on any share, in any one year, greater than one-fifth of the value of a share, without the consent of a majority of the members.

SEC. 5. *And be it further enacted*, That there shall be an annual meeting of the members of the said library company at the library, or such suitable place as the directors may from time to time

appoint, of which the directors shall cause public notice to be given in one or more of the newspapers that circulate in the vicinity; at which time and place, the members, or such of them as may be present, either personally or by proxy, and shall not be in arrears for any annual contribution, fines, or forfeitures, shall elect and choose by ballot six directors out of their own number, to serve for the year ensuing their election, and until others shall be elected and consent to serve in their place.

SEC. 6. *And be it further enacted*, That the directors shall cause the treasurer, secretary, and librarian, to keep, in suitable books for that purpose, just and proper entries of all the proceedings and accounts of the company and corporation, and have them laid before the company at every annual meeting, previous to taking the votes for directors; and shall always deliver the said books, together with all the property of the company, in good order to their successors in office, whenever required.

Approved, January 31, 1804.

An Act making appropriations for the support of the Military Establishment of the United States, in the year one thousand eight hundred and four.

*Be it enacted, &c.*, That, for defraying the expense of the Military Establishment of the United States, for the year one thousand eight hundred and four, for the Indian department, and for the expense of fortifications, arsenals, magazines, and armories, the following sums be, and the same hereby are respectively appropriated, that is to say:

For the pay of the army of the United States, three hundred and one thousand four hundred and seventy-six dollars.

For forage, four thousand and fifty-six dollars.

For the subsistence of the officers of the army and corps of engineers, twenty-eight thousand and eighty-two dollars and eighty three cents, and one-half of a cent.

For the subsistence of non-commissioned officers, musicians, and privates, one hundred and sixty-three thousand eight hundred and thirty-nine dollars and thirty-seven cents and one half of a cent.

For clothing, eighty thousand dollars.

For bounties and premiums, fourteen thousand dollars.

For the medical and hospital department, ten thousand dollars.

For camp equipage, fuel, tools, expense of transportation, and other contingent expenses of the War Department, seventy-one thousand dollars.

For fortifications, arsenals, magazines, and armories, one hundred and nine thousand eight hundred and ninety-six dollars and eighty eight cents.

For purchasing maps, plans, books, and instruments for the War Department and military academy, one thousand dollars.

For the Indian department, seventy-five thousand five hundred dollars.

SEC. 2. *And be it further enacted*, That the

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several appropriations, herein-before made, shall be paid and discharged, first, out of any balance remaining unexpended of former appropriations for the support of the Military Establishment, and secondly, out of any moneys in the Treasury, not otherwise appropriated.

Approved, February 10, 1804.

An Act continuing for a limited time the salaries of the officers of Government therein mentioned.

*Be it enacted &c.,* That, from and after the last day of December, one thousand eight hundred and three, the following annual compensations, and no other, be, and they are hereby granted to the officers herein enumerated, respectively, that is to say:

To the Secretary of State, five thousand dollars.  
The Secretary of the Treasury, five thousand dollars.

The Secretary of War, four thousand five hundred dollars.

The Secretary of the Navy, four thousand five hundred dollars.

The Attorney General, three thousand dollars.

The Comptroller of the Treasury, three thousand five hundred dollars.

The Treasurer, three thousand dollars.

The Auditor of the Treasury, three thousand dollars.

The Register of the Treasury, two thousand four hundred dollars.

The Accountant of the War Department, two thousand dollars.

The Accountant of the Navy Department, two thousand dollars.

The Postmaster General, three thousand dollars.

And the Assistant Postmaster General, one thousand seven hundred dollars; which sums shall be respectively paid quarter-yearly at the Treasury of the United States.

SEC. 2. *And be it further enacted,* That this act shall continue in force for three years, and from thence until the end of the next session of Congress thereafter, and no longer.

Approved, February 20, 1804.

An Act for laying and collecting duties on imports and tonnage within the territories ceded to the United States, by the Treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic; and for other purposes."

*Be it enacted, &c.,* That the same duties which by law now are, or hereafter may be laid on goods, wares, and merchandise, imported into the United States, on the tonnage of vessels, and on the passports and clearances of vessels, shall be laid on goods, wares, and merchandise, imported into the territories ceded to the United States by the Treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic; and on vessels arriving in or departing from the said territories: and the following acts, that is to say, the act, entitled

"An act to establish the Treasury Department;"  
"An act concerning the registering and recording of ships and vessels;"

"An act for enrolling and licensing ships or vessels to be employed in the coasting trade and fisheries;"

"An act to regulate the collection of duties on imports and tonnage;"

"An act to establish the compensations of officers employed in the collection of the duties on imports and tonnage, and for other purposes;"

"An act for the more effectual recovery of debts due from individuals to the United States;"

"An act to provide more effectually for the settlement of accounts between the United States and receivers of public money;"

"An act to authorize the sale and conveyance of lands, in certain cases, by the marshals of the United States, and to confirm former sales;"

An act to provide for mitigating or remitting the forfeitures, penalties, and disabilities accruing in certain cases therein mentioned;"

"An act to establish a Mint, and to regulate the coins of the United States;"

"An act regulating foreign coins, and for other purposes;"

And the act supplementary to, and amendatory of the two last mentioned acts, or so much of the said acts as is now in force, and also so much of any other act or acts of the United States as is now in force, or may be hereafter enacted, for laying any duties on imports, tonnage, seamen, or shipping, for regulating and securing the collection of the same; for granting and regulating drawbacks, bounties and allowances in lieu of drawbacks; concerning the registering, recording, enrolling, and licensing of ships and vessels; to provide for the settlement of accounts between the United States and individuals; for the recovery of debts due to the United States; and for remitting forfeitures, penalties, and disabilities, shall extend to, and have full force and effect in the above-mentioned territories: *Provided, however, and it is hereby further enacted,* That ships or vessels, which, on the twentieth day of December last, were owned by persons then residing in the above-mentioned territories, and who either were citizens of the United States, or had resided in the said territories during five years next preceding, shall be entitled to the benefits and privileges of ships or vessels of the United States, whilst they shall continue to be wholly owned by such persons, or by citizens of the United States: *Provided nevertheless,* That the persons claiming such privileges for their ships or vessels, if not citizens of the United States, shall have previously taken an oath of allegiance to the United States, which oath the collector of the port is hereby authorized to administer.

SEC. 2. *And be it further enacted,* That so much of any act or acts of the United States, now in force, or which may be hereafter enacted, concerning the Bank of the United States, and for the punishment of frauds committed on the same; for the relief of sick and disabled seamen; for the protection of American seamen; for the govern-

ment and regulation of seamen in the merchant service; and for preventing the exportation of goods not duly inspected, shall extend to, and have full force and effect in the above-mentioned territories.

SEC. 3. *And be it further enacted*, That so much of any law or laws, laying any duties on the importation into the United States of goods, wares, and merchandise, from the said territories, (or allowing drawbacks on the importation of the same from the United States to the said territories,) or respecting the commercial intercourse between the United States and the said territories, or between the several parts of the United States through the said territories, which is inconsistent with the provisions of the preceding section, be, and the same hereby is, repealed; and all duties on the exportation of goods, wares, and merchandise, from the said territories, as well as all duties on the importation of goods, wares, and merchandise, into the said territories, on the transfer of ships or vessels, and on the tonnage of vessels, other than those laid by virtue of the laws of the United States, shall, from the time when this act shall commence to be in force, cease and determine: *Provided, however*, That nothing herein contained shall be construed to affect the fees and other charges usually paid in the said territories on account of pilotage, wharfage, or the right of anchoring by the levee of the city of New Orleans, which several fees and charges shall, until otherwise directed, continue to be paid and applied to the same purposes as heretofore.

SEC. 4. *And be it further enacted*, That to the end that the laws providing for the collection of the duties imposed by law on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels, and the laws respecting the revenue and navigation of the United States, may be carried into effect within the said territories, the territories ceded to the United States by the treaty above-mentioned, and also all the navigable waters, rivers, creeks, bays and inlets, lying within the United States, which empty into the Gulf of Mexico, east of the river Mississippi, shall be annexed to the Mississippi district, and shall, together with the same, constitute one district, to be called the "District of Mississippi." The city of New Orleans shall be the sole port of entry in the said district, and the town of Bayou St. John shall be a port of delivery; a collector, naval officer, and surveyor shall be appointed to reside at New Orleans, and a surveyor shall be appointed to reside at the port of Bayou St. John; and the President of the United States is hereby authorized to appoint, not exceeding three surveyors, to reside at such other places within the said district as he shall deem expedient, and to constitute each, or either, of such places ports of delivery only: and so much of any law or laws as establishes a district on the river Mississippi, south of the river Tennessee, is hereby repealed, except as to the recovery and receipt of such duties on goods, wares, and merchandise, and on the tonnage of ships or vessels, as shall have accrued, and as to the recovery and

distribution of fines, penalties, and forfeitures, which shall have been incurred before the commencement of the operation of this act.

SEC. 5. *And be it further enacted*, That the shores and waters of the town of Natchez shall be one district, to be called the district of Natchez, and a collector shall be appointed who shall reside at Natchez, which shall be the only port of entry or delivery within the said district, of any goods, wares, and merchandise, not the growth or manufacture of the United States: *Provided, nevertheless*, That it shall be the duty of every master or commander of any ship or vessel destined for the said port of Natchez, to stop at New Orleans, and there deliver to the collector of said port a manifest of the cargo on board such ship or vessel agreeably to law, on penalty of five thousand dollars: and it shall be the duty of said collector to transmit a certified copy of such manifest to the collector of the said port of Natchez, and to direct an inspector to go on board such ship or vessel, and proceed therewith to the port of Natchez, and there report such ship or vessel to the collector of said port of Natchez immediately after his arrival, when the duty of said inspector shall cease.

SEC. 6. *And be it further enacted*, That foreign ships or vessels shall be admitted to unlade at the port of New Orleans, and at no other port within the district of Mississippi; and ships or vessels belonging to citizens of the United States coming directly from France or Spain, or any of their colonies, shall not be admitted to unlade at any port within the district of Mississippi other than New Orleans: and ships or vessels arriving from the Cape of Good Hope, or from any place beyond the same, shall be admitted to make entry at the port of New Orleans, and at no other port within the district of Mississippi: *Provided, however*, That nothing in this act contained shall authorize the allowing of drawbacks on the exportation of any goods, wares, and merchandise, from the said port of New Orleans, other than on those which shall have been imported directly into the same from a foreign port or place.

SEC. 7. *And be it further enacted*, That the master or commander of every ship or vessel bound to a port of delivery only, other than the port of Bayou St. John, in the district of Mississippi, shall first come to at the port of New Orleans with his ship or vessel, and there make report and entry, in writing, and pay, or secure to be paid, all legal duties, port fees, and charges, in manner provided by law, before such ship or vessel shall proceed to her port of delivery; and any ship or vessel bound to the port of Bayou St. John, may first proceed to the said port, and afterwards make report and entry at the port of New Orleans within the time by law limited; and the master of every ship or vessel arriving from a foreign port or place, or having goods on board of which the duties have not been paid or secured, and bound to any port within the district of Mississippi, (other than New Orleans, or Bayou St. John,) shall take an inspector on board, at New Orleans, before proceeding to such port; and if

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any master of a ship or vessel shall proceed to such port of delivery, contrary to the directions aforesaid, he shall forfeit and pay five hundred dollars, to be recovered in any court of competent jurisdiction, with the costs of suit.

SEC. 8. *And be it further enacted*, That, during the term of twelve years, to commence three months after the exchange of ratifications of the above-mentioned treaty shall have been notified at Paris to the French Government, French ships or vessels coming directly from France or any of her colonies, laden only with the produce or manufactures of France, or any of her said colonies; and Spanish ships or vessels coming directly from Spain or any of her colonies, laden only with the produce or manufactures of Spain or any of her said colonies, shall be admitted into the port of New Orleans, and into all other ports of entry which may hereafter be established by law within the territories ceded to the United States by the above-mentioned treaty, in the same manner as ships or vessels of the United States coming directly from France or Spain or any of their colonies, and without being subject to any other or higher duty on the said produce or manufacture than by law now is or shall at the time be payable by citizens of the United States on similar articles, imported from France or Spain, or any of their colonies, in vessels of the United States, into the said port of New Orleans, or other ports of entry in the territories above-mentioned; or to any other or higher tonnage duty than by law now is or shall at the time be laid on the tonnage of vessels of the United States coming from France or Spain, or from any of their colonies, to the said port of New Orleans, or other ports of entry within the territories above-mentioned.

SEC. 9. *And be it further enacted*, That the collector of the district of Mississippi shall give bond for the true and faithful discharge of his duties, in the sum of fifteen thousand dollars, and shall be allowed, in addition to the fees and emoluments of his office, in lieu of all other commissions, one and a half per cent. on all moneys by him received on account of the duties arising from goods, wares, and merchandise, imported into the said district, and on the tonnage of ships and vessels; and the naval officers and surveyors of the said district shall, respectively, receive an annual compensation of two hundred and fifty dollars, in addition to their other fees and emoluments.

SEC. 10. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized to cause to be built and equipped one revenue cutter, in addition to those heretofore authorized by law; which cutter may be officered, manned, and employed in the same manner; and the expense thereof shall be paid out of the same fund as is provided for defraying the expense of the revenue cutters heretofore authorized by law.

SEC. 11. *And be it further enacted*, That the President of the United States be, and he hereby is, authorized, whenever he shall deem it expedient, to erect the shores, waters, and inlets of the bay and river of Mobile, and of the other rivers, creeks, inlets, and bays, emptying into the Gulf of

Mexico, east of the said river Mobile, and west thereof to the Pascagoula, inclusive, into a separate district, and to establish such place within the same as he shall deem expedient, to be the port of entry and delivery for such district; and to designate such other places within the same district, not exceeding two, to be ports of delivery only. Whenever such separate district shall be erected, a collector shall be appointed, to reside at the port of entry; and a surveyor shall likewise be appointed, to reside at each of the ports of delivery which may be established. And such collector and surveyor shall be entitled to receive, in addition to their other fees and emoluments, an annual salary of two hundred and fifty dollars. And the said collector shall give bond for the faithful discharge of the duties of his office, in the sum of five thousand dollars.

SEC. 12. *And be it further enacted*, That this act shall commence thirty days after the passing thereof.

Approved, February 24, 1804.

An Act supplementary to an act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia."

*Be it enacted, &c.*, That the act, entitled "An act to incorporate the inhabitants of the City of Washington, in the District of Columbia," except so much of the same as is inconsistent with the provisions of this act, be, and the same is hereby, continued in force for and during the term of fifteen years from the end of the next session of Congress.

SEC. 2. *And be it further enacted*, That the council of the City of Washington, from and after the period for which the members of the present council have been elected, shall consist of two chambers, each of which shall be composed of nine members, to be chosen by distinct ballots, according to the directions of the act to which this is a supplement. A majority of each chamber shall constitute a quorum to do business. In case vacancies shall occur in the council, the chamber in which the same may happen shall supply the same by an election, by ballot, from the three persons next highest on the list to those elected at the preceding election; and a majority of the whole number of the chamber in which such vacancy may happen shall be necessary to make an election.

SEC. 3. *And be it further enacted*, That the council shall have power to establish and regulate the inspection of flour, tobacco, and salted provisions; the gauging of casks and liquors; the storage of gunpowder, and all naval and military stores, not the property of the United States; to regulate the weight and quality of bread; to tax and license hawkers and pedlars; to restrain or prohibit tippling-houses, lotteries, and all kinds of gaming; to superintend the health of the city; to preserve the navigation of the Potomac and Anacosta rivers, adjoining the city; to erect, repair, and regulate public wharves, and to deepen docks and basins; to provide for the establishment and superintendence of public schools; to license and regulate, exclusively, hackney coaches, ordinary

keepers, retailers, and ferries; to provide for the appointment of inspectors, constables, and such other officers as may be necessary to execute the laws of the corporation; and to give such compensation to the mayor of the city as they may deem fit.

SEC. 4. *And be it further enacted*, That the levy court of the county of Washington shall not hereafter possess the power of imposing any tax on the inhabitants of the City of Washington.

Approved, February 24, 1804.

**An Act to amend the Charter of Alexandria.**

*Be it enacted, &c.*, That the town of Alexandria shall be, and is hereby, divided into two districts, by a line running east and west, at an equal distance between King and Prince streets, beginning at the river Potomac and extending to the western boundary of said town; and all that part of the town, which is situate north of the said dividing line, shall be called the northern district; and all that part of the town, which is situate south of the said dividing line, shall be called the southern district of the town of Alexandria; and where any house or lot shall be situate partly in each district, it shall be considered as lying in that district where the greater part of said house or lot is situate, and shall be assessed accordingly; each of the districts aforesaid shall be divided into two electoral wards, by a line passing from north to south through the middle of Pitt street, to be called the first, second, third, and fourth ward; none of the taxes on the valuation of real property, which shall hereafter be collected in the northern district, shall be expended in the regulating, or filling up, or paving, or repairing of the streets, or sinking of wells, or building of bridges in the southern district; nor shall the taxes on the valuation of real property, which shall hereafter be collected in the southern district, be expended in the regulating, or filling up, or paving, or repairing of the streets, or sinking of wells, or building of bridges in the northern district. But all the moneys to be expended upon the aforesaid improvements in either district, shall be raised by an assessment on the valuation of real property in each district, respectively, at the times and in the manner the said common council shall order and direct. It shall be the duty of the assessors and other public officers to keep the accounts of each district separate and distinct in regard to the assessments for the aforesaid local purposes; and all other taxes which are now, or shall hereafter be, assessed or levied upon the valuation of real property or other subjects, together with the fines, and also the rents issuing from the property belonging to the corporation, and all their other resources, shall constitute a general fund, to be appropriated as the common council shall direct.

SEC. 2. *Be it further enacted*, That every free white male citizen of full age, who shall be bona fide seized of a freehold estate in the town of Alexandria, or who shall have resided in the town aforesaid for the space of one year, and have been a housekeeper therein for the space of three

months next preceding the day of the election, and who shall have been within that time charged with any tax upon the public books, and shall have paid such tax, shall be qualified to vote for members to serve in the common council of the said town, and no other person shall exercise the right of suffrage; and the persons qualified, as aforesaid, to vote, shall meet at some convenient place in the ward in which they respectively reside, and elect by ballot four persons for the representatives of such ward in the common council, out of the free white male citizens who shall have arrived to the age of twenty-one years, and shall have resided in the town of Alexandria three years, and in the ward for which he shall be elected for the space of three months immediately preceding the election, and shall moreover be seized of an estate of freehold in the said ward, and be housekeeper therein. And that the said election shall be held on the first Tuesday of March, in every year, by three commissioners to be appointed in each ward for that purpose by the mayor and commonalty for the ensuing election, and afterwards by the common council, which appointment shall be at least ten days before the day of each election, except in regard to the first election to be held under this act. The election for the ensuing year shall be held at such place, in each ward, as shall be fixed on by the mayor and commonalty, and thereafter shall be held at such place as shall be appointed by the common council, of which public notice shall be given.

SEC. 3. *Be it further enacted*, That the members of the common council, elected as aforesaid, or any twelve of them, shall, within seven days after their election in each year, assemble themselves at the court-house, or any other place which shall be hereafter fixed for their meeting, and shall choose one of their body to be president of the said common council, to whom shall be administered, by any justice of the peace in the county of Alexandria, an oath or affirmation for the faithful discharge of the duties of his office; whereupon the president of the said common council shall administer the oath of office to the other members of the said council, and shall have, while the council is in session, the same power which is at present exercised by the mayor, upon the like occasion; and he shall convene the council whenever in the opinion of four of the members expressed to him in writing, or whenever in his opinion the good of the town may require it; and the authority of the said common council shall continue one year from the day of their election, and until others are chosen and qualified in their stead, and no longer. That the common council so elected, and those thereafter to be elected, and their successors, shall be and hereby are made a body politic and corporate, by the name of the Common Council of Alexandria; and by the said name shall have perpetual succession with capacity to purchase, possess, and enjoy lands and tenements, and goods and chattels, either in fee or lesser estate therein, and the same to give, grant, let, sell, assign, or transfer; and to plead and be impleaded, prosecute and defend all



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causes, complaints, actions real, personal, or mixed, and to have one common seal, and perpetual succession. And all the estate, rights, and credits, now vested in the mayor and commonalty of the town of Alexandria, shall be vested in the said common council, when elected, and may be recovered in their name for the use of the said town, and in like manner all claims and demands against the mayor and commonalty of Alexandria, prior to the operation of the present act, may be prosecuted and recovered against the aforesaid common council; and process served upon the president of the common council, shall be deemed sufficient.

SEC. 4. *Be it further enacted*, That the jurisdiction of the said common council shall extend to the limits heretofore prescribed by law, and exercised by the mayor and commonalty. The concurrence of a majority of the whole number of members elected into the common council, shall be necessary for the passing of any law, order, or resolution, or for repealing, altering, or revoking the same.

SEC. 5. *Be it further enacted*, That the said common council shall have power to erect and repair work-houses, houses of correction, and other public buildings, for the benefit of the said town; to pave, make, and repair the streets and highways; to make all laws which they shall conceive requisite for the preservation of the health of the inhabitants, and for the regulation of the morals and police of the said town, and to enforce the observance of their said laws, by reasonable penalties and forfeitures, to be levied upon the goods and chattels of the offender; and they shall have power to raise money by taxes, for the use and benefit of the said town: *Provided*, That such laws shall not be repugnant to, or inconsistent with, the laws and Constitution of the United States. The said common council shall, whenever they deem it proper, have power to open, extend, regulate, pave, and improve the streets, within the limits of the said town: *Provided*, They make to the person or persons who may be injured by such extension, just and adequate compensation out of the funds of the corporation, to be ascertained by the verdict of an impartial jury, in like manner as has been usual in other cases, where private property has been condemned for public use. They shall have power to hold and keep within the said town, market days in every week, and from time to time, to appoint a clerk of the market, who shall do and perform all things belonging to the office of clerk of the market within the said town, according to the rules and regulations which they shall prescribe. They shall have power to pass all laws not inconsistent with the laws of the United States, which they may conceive requisite for the prevention and removal of nuisances, and to appoint a superintendent of police, commissioners, and surveyors of the streets, constables, collectors of the taxes, and all other officers who may be deemed necessary for the execution of their laws, who shall be paid for their services a reasonable compensation, and whose duties and powers

shall be prescribed in such manner as the common council shall deem fit for carrying into execution the powers hereby granted.

SEC. 6. *Be it further enacted*, That the jurisdiction of the said common council shall extend over the harbor of Alexandria, and over vessels of every description which may arrive and be in the harbor, or be at anchor in any part of the river Potomac, below Pearson's Island, and within the District of Columbia, for the purpose of preventing and removing all nuisances, and such other subjects or things, being on board any such vessel, as may be prejudicial to the health of the town, and for no other purpose: And, also, their jurisdiction shall extend over the house lately built in the vicinity of the town for the accommodation of the poor and others, and over the ten acres of ground thereto belonging, and over all persons who may be sent or placed there by the consent or authority of the common council, and on their way to and from the same, until they be regularly discharged: *Provided*, That paupers and other persons shall not be considered as having thereby gained a residence in the county, so as to become chargeable thereto.

SEC. 7. *Be it further enacted*, That the common council shall, annually, at their first meeting after their own election and qualification, choose by ballot a fit and able man, having the qualifications hereinafter directed, to be mayor of the town, which choice shall be made by a majority of the whole number of members of the said common council, unless the whole number of members be equally divided between two persons, in which case one of those two persons shall be immediately, by the vote of the president of the council, elected. The mayor shall hold his office for one year, from the time of his election, and until a successor is chosen and qualified in his stead. At the expiration of which period he may be re-elected for two years thereafter in succession, and no longer, until he shall have been out of office for one year. He shall, before he enters upon the duties of his office, take an oath or affirmation, in the presence of the council, faithfully to execute his said office, which shall be recorded in their book of proceedings. He shall see that the laws of the corporation be duly executed, and shall report the negligence or misconduct of any officer to the common council, who, on satisfactory proof thereof, may remove from office the said delinquent, or take such other measures thereupon, as shall be just and lawful. He shall have power to convene the common council when, in his opinion, the good of the community may require it, and he shall lay before the council, from time to time, in writing, such alterations in the laws of the corporation, as he shall deem necessary or proper. He shall have and exercise all the powers of a justice of the peace within the said town, and shall receive for his services, annually, a just and reasonable compensation, to be allowed and fixed by the common council, which shall not be increased or diminished during the period for which he shall have been elected. Any person shall be eligible to the office of mayor, who is a white male citizen

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of the United States, who shall have attained to the age of thirty years, and who shall be the bona fide owner of a freehold estate in the said town, and shall have been a resident in the town of Alexandria five years immediately preceding his election, and no other person shall be eligible to the said office.

SEC. 8. *Be it further enacted*, That in case of the refusal of any person to accept the office of mayor upon his election thereto, or of his death, resignation, inability, or removal, the common council shall elect another in his place to serve the remainder of the year. The common council shall have power to supply vacancies in their own body, by causing elections to be made in manner herein-before directed, out of the citizens qualified to fill the said office in the ward in which such vacancies shall have happened; and may, in the absence of the president, elect a president pro tempore. In case of the temporary inability or absence of the mayor, the president of the common council shall perform all the duties of the mayor, that may be required to be performed during his absence or inability, and in case of vacancy in the said office he shall perform the duties thereof, until a new election shall be made.

SEC. 9. *And be it further enacted*, That the acts of the common council shall be signed by the president of the common council, and shall be presented to the mayor for his approbation, who, if he objects thereto, shall within three days after it shall be presented to him for his assent, return it to the common council with his objections in writing, and if a majority of the whole council shall be of opinion that the law ought to be passed, it shall, notwithstanding the objections of the mayor, become a law, and he shall sign the same; but if the mayor shall not return his objections to the same, within three days, to the said council, it shall become a law, and shall be signed by him. The clerk of the council shall record in a book to be kept by him for that purpose, all the laws, orders, and resolutions which shall be passed, as aforesaid, and deliver a copy of them to the public printer, to be printed for the information of the people.

SEC. 10. *Be it further enacted*, That the commissioners to superintend the election in each ward, shall, before they receive any vote, take, severally, the following oath or affirmation, to be administered by the mayor, or any justice of the peace: "I A. B. do solemnly swear, or affirm, (as the case may be) that I will truly and faithfully receive and return the votes of such persons as are by law entitled to vote for members of council in ward No.—, and that I will not knowingly receive or return the vote of any who is not legally entitled to the same; so help me God:" the said election shall be closed on the day it is begun, and the poll shall be kept open until sunset, and no longer. The said commissioners in each ward, or a majority of them shall, on the next day after the election, make a list of all the votes received at said election, and the four persons having the greatest number of votes shall be duly elected; and in all cases of an equality of

votes, the commissioners shall decide, and shall make a return of the persons so elected, under their hands and seals, to the mayor, who shall cause the same to be published in the newspapers of the town; the said commissioners shall also send a duplicate return, under their hands and seals, of the persons elected, to the clerk of the common council, who shall preserve and record the same; the said common council shall judge of the legality of the election of any person who shall be returned as a member thereof, and shall have full power to pass all laws to enable them to come to a just decision upon a contested election: They shall have power to compel the attendance of the members of the council by reasonable penalties, and to pass all laws for the orderly and regular conduct of business: They may punish any member for disorderly behaviour, and, with consent of three-fourths of the whole council, expel a member.

SEC. 11. *And be it further enacted*, That whenever taxes upon real property, or other claims charged upon real property within the town, shall be due and owing to the common council, and the proprietor shall fail to discharge the same, the said common council, after giving the party reasonable notice, when he resides in the town, sixty days' notice when he resides out of the town and in the United States, and after six months' publication in the newspapers when he resides out of the United States, shall be empowered to recover the said taxes or debts, by motion in the court of Alexandria county: *And provided*, It shall appear to the satisfaction of the court that such taxes or claims are justly due, judgment shall be granted, and an execution shall issue thereupon, with the costs of suit, against the goods and chattels of the defaulter, if any can be found within the town; if not, that the whole property upon which the tax or claim is due, shall, by order of the court, be leased out at public auction for the shortest term of years that may be offered, on condition that the lessee pay the arrearages, and also the future taxes accruing during the term, and be at liberty to remove all his improvements at the expiration of the lease: *Provided always*, That the common council may prosecute any other remedy, by action, for the recovery of the said taxes and claims, which is now possessed or allowed.

SEC. 12. *And be it further enacted*, That so much of any act or acts of the General Assembly of Virginia, as comes within the purview of this act, shall be, and the same is hereby, repealed: *Provided*, That nothing herein contained shall be construed to impair or destroy any right or remedy which the mayor and commonalty of Alexandria now possess or enjoy to or concerning any debts, claims, or demands, against any person or persons whatsoever; or to repeal any of the laws and ordinances of the mayor and commonalty of the said town now in force, which are not inconsistent with this act.

Approved, February 25, 1804.

An Act relating to the recording, registering, and enrolling of ships or vessels in the district of Orleans.

*Be it enacted, &c.*, That any ship or vessel pos-

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essed of and sailing under a Spanish or French register, and belonging, on the twentieth day of December, one thousand eight hundred and three, and continuing to belong wholly to any citizen or citizens of the United States, then residing within the territories ceded to the United States, by the treaty of the thirtieth of April, one thousand eight hundred and three, between the United States and the French Republic, or to any person or persons being, on the said thirtieth day of April, an inhabitant or inhabitants of the said ceded territories, and who continue to reside therein, and of which the master is a citizen of the United States, or an inhabitant as aforesaid, may be registered, enrolled, and licensed in the manner prescribed by law; and being so registered, enrolled, or licensed, shall be denominated and deemed a ship or vessel of the United States, and entitled to the benefits granted by any law of the United States to ships or vessels thereof: *Provided*, That it shall be lawful for the collector, to whom application shall be made for a certificate of registry, enrollment, or license, for such ship or vessel, by any citizen or inhabitant as aforesaid, to make such variations in the forms of the oaths, certificates, and licenses, as shall render them applicable to the cases herein intended to be provided for: *And provided, also*, That every such inhabitant applying as aforesaid, shall, prior to his being entitled to receive such certificate of registry, enrollment, or license, deposit with the collector, the register and other papers under which such ship or vessel had been navigated; and also take and subscribe, before the collector (who is hereby authorized to administer the same) the following oath: "I, A B, do swear (or affirm) that I will be faithful and bear true allegiance to the United States of America, and that I do entirely renounce and abjure all allegiance and fidelity to every foreign Prince, Potentate, State, or Sovereignty whatever, and particularly to the King of Spain and the French Republic."

**SEC. 2.** *And be it further enacted*, That the inhabitants of the said ceded territory, who were residents thereof on the thirtieth day of April, one thousand eight hundred and three, who shall take the oath aforesaid, and who continue to reside therein, or citizens of the United States, residents of said ceded territory, shall be entitled to all the benefits and privileges of owning ships or vessels of the United States, to all intents and purposes, as if they were resident citizens of the United States.

Approved, February 25, 1804.

An Act for the relief of certain military pensioners in the State of South Carolina.

*Be it enacted, &c.*, That the persons to whom military pensions have been heretofore granted and paid by the State of South Carolina, in pursuance of the resolves of the United States in Congress assembled, for the payment of pensions to the invalids who were wounded and disabled during the late war with Great Britain, and who have not been placed on the books in the office of

the Secretary for the Department of War, shall be, and the same hereby are, directed to be placed on said books, and their said pensions shall be hereafter paid by the United States, in the same manner as to other pensioners of the United States, out of the funds already appropriated for that purpose.

**SEC. 2.** *And be it further enacted*, That in placing the names of pensioners on the books, pursuant to the directions contained in the foregoing section, the Secretary of War shall be guided by a certificate from the State of South Carolina, when the same shall be delivered to him, under the proper authentications, which certificate shall specify the names of pensioners and sums of pension; and likewise, that they have not been paid since March the fourth, one thousand seven hundred and eighty-nine, by said State; which certificate shall be recorded in the books of the Department of War, and the original kept on file. And each officer, non-commissioned officer, and soldier, whose name shall be placed on the said list as a pensioner, in conformity to the provisions of this act, or in case of the death of any such officer, non-commissioned officer, or soldier, his heirs or legal representatives shall receive a sum equal to the arrears of his pension, which shall have accrued from and after the fourth day of March, one thousand seven hundred and eighty-nine, until the passage of this act, or until the death of such pensioner, as aforesaid, as the case may be; which arrearages shall be ascertained and certified by the Register of the Treasury in the same manner, and under the same restrictions as are contained in the act passed on the eleventh day of August, one thousand seven hundred and ninety, entitled "An act for the relief of persons therein mentioned or described." *Provided*, That the commutation of half-pay which may have been received by any commissioned officer entitled to a pension, as aforesaid, shall first be returned by such officer into the Treasury of the United States, or shall be deducted from the arrears of pension directed to be paid by this act.

Approved, March 3, 1804.

An Act to allow drawbacks of duties on goods, wares, and merchandise, transported by land, in the cases therein mentioned.

*Be it enacted, &c.*, That all goods, wares, and merchandise, duly imported into either of the districts of Boston and Charleston, Salem and Beverly, Newburyport, Ipswich, or Marblehead, in the State of Massachusetts, which shall be transported by inland conveyance along the turnpike or other main road into another of the said districts, and be therefrom exported to any foreign port or place, shall be entitled to the benefit of a drawback of the duties upon such exportation, under the same provisions, regulations, restrictions, and limitations, as if the goods, wares, and merchandise, were transported coastwise from one to another of the said districts, and also upon the conditions specified in the seventy-ninth section of the act, entitled "An act to regulate the collection of duties on imports and tonnage."

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SEC. 2. *And be it further enacted*, That all goods, wares, and merchandise, duly imported into the district of Delaware, may be transported to the same places, in the same manner, and on the same conditions with goods, wares, and merchandise, duly imported into the districts of Philadelphia, New York, or Baltimore, and shall in like manner be entitled to the benefit of a drawback of the duties thereon, upon exportation to any foreign port or place, agreeably to the provisions contained in the seventy-ninth section of an act, entitled "An act to regulate the collection of duties on imports and tonnage;" and that all goods, wares, and merchandise, which being duly imported into the districts of Philadelphia, New York, or Baltimore, shall be exported from the district of Delaware, shall also be entitled to the benefit of a drawback of the duties on the same, in the same manner, and on the same conditions, which are prescribed by the said seventy-ninth section of the act aforesaid, for goods, wares, and merchandise, which, being duly imported into Baltimore or New York, shall be exported from Philadelphia.

Approved, March 3, 1804.

An Act further to amend the act, entitled "An act to lay and collect a direct tax within the United States."

*Be it enacted, &c.*, That it shall be the duty of the collectors of the direct tax, under whose direction, or by whom any tract of land may have been sold for non-payment of such tax, and where the time limited by law for the redemption of such lands shall not have expired before the passing of this act, to transmit, within three months after the passing of this act, correct transcripts of the lists of all the tracts of land or lots, which have been sold, either in whole or in part, for non-payment of the said tax before the passing of this act, to the supervisor or to the officers to whom the duties of supervisor may have been transferred; or in case there be no such person, to the marshal of the district within which such lands may lie; and the said collectors shall likewise transmit to the same officer, within three months after the completion of any sale made subsequent to the passing of this act, similar transcripts of the lists of all the tracts of land or lots which shall, after the passing of this act, be sold, either in whole or in part, for non-payment of the said tax, which several transcripts shall, in every case, specify the tract or lot sold, in whole or in part, the quantity of land which has been sold, the time when sold, the amount of tax, charges, and costs for which it was sold, and the amount paid by, and the name of, the purchaser; and shall also designate all those tracts or lots which shall have been redeemed by the original proprietors, or for their benefit, in conformity with the provisions for that purpose heretofore enacted; and it shall also be the duty of the said collectors to pay over, within the time aforesaid, to the officer to whom the above-mentioned transcripts may have been transmitted, the amount of all the moneys paid to them by or for the benefit of any original proprie-

tor of lands or lots sold for non-payment of the tax, and subsequent to such sale redeemed in conformity of law, by or for such proprietor, which shall not, at the time of transmitting the said transcripts, have been repaid by such collector to the purchaser of such lands or lots: And any collector failing to comply with the provisions of this section, or with any of them, shall forfeit and pay the sum of one thousand dollars with costs of suit.

SEC. 2. *And be it further enacted*, That if any collector shall fail to transmit the transcripts required by the first section of this act within the time aforesaid, it shall be the duty of the supervisor, officer acting as supervisor, or marshal, as the case may be, of the district within which the collection district of such collector may be, to prepare within six months after the passing of this act, from the lists or such other documents as may be in his possession, a similar transcript of the list of lands which such collector had by virtue of the second section of the act, entitled "An act to amend an act to lay and collect a direct tax within the United States," been authorized to sell for non-payment of the said tax; which list shall likewise specify, in every case, the tract or lot described in the original assessment, and the amount of tax, charges, and costs, for which it was liable to be sold; and any supervisor, officer acting as supervisor, or marshal, as the case may be, failing to comply with the provisions of this section shall forfeit and pay the sum of five hundred dollars, with costs of suit.

SEC. 3. *And be it further enacted*, That it shall be the duty of the supervisors, officers acting as supervisors, or marshals, as the case may be, to exhibit the before-mentioned transcripts, whether transmitted by the collector, or prepared by themselves; and also, to keep open the original assessment lists, and whenever required within the time limited by law for the redemption of lands, or lots, thus sold, to any person wishing to ascertain whether any tract of land or lot has been sold for non-payment of the tax, to receive, within the same period, from any person tendering the same, the amount of the tax, charges, and costs, for which any such tract of land or lot has been sold, with the interest which shall have accrued on the same as fixed by law, and execute a receipt for the same; which payment, by whomsoever made, shall always be considered to be made for the benefit of the original proprietor; and to pay over, at any time, within the same period, when applied for, the moneys and interest received from, or for any original proprietors, who shall have availed themselves of the right of redeeming their lands, agreeably to law, to the person who may have purchased the tract of land or lot, so redeemed, when the same was sold for non-payment of the tax, or to the representative of such person.

SEC. 4. *And be it further enacted*, That it shall be the duty of the said supervisor, person acting as supervisor, or marshal, as the case may be, to file at the end of two years after the completion of the sales of lands sold within their district, for

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non-payment of the direct tax, with the clerk of the district court within whose district such lands may lie, correct transcripts, similar to those prescribed by the first section of this act, of the lands or lots sold in whole, or in part, for non-payment of the direct tax, and which shall not have been redeemed by, or for, the original proprietor within the said two years; and also to pay into the clerk's office of the said court, for the use of the purchaser, or his representatives, any moneys remaining in their hands which shall have been paid by such original proprietors, as shall have availed themselves of the right of redemption. And it shall also be the duty of the said supervisors, officers acting as supervisors, or marshals, as the case may be, when any collector shall have failed to transmit to them, or any of them, the transcripts of the lists of lands sold for non-payment of the tax, as required by the first section of this act, to file with the clerk of the said district court the receipts given by such collector, either for the purchase-money of lands or lots thus sold, to the purchasers, or for the redemption of the same, to original proprietors which shall have been delivered by the purchasers, or original proprietors, as the case may be, of lands or lots thus sold, to the said supervisors, officers acting as supervisors, or marshals, in the manner and within the time prescribed by this act.

SEC. 5. *And be it further enacted*, That the several marshals, for the time being, of the said district courts, shall alone have the authority in all cases where the time limited by law for the redemption of lands sold shall not have expired before the passing of this act, and they are hereby authorized and required, to execute deeds for so much of the said lands and lots as shall have been sold to satisfy the amount of the direct tax, charges, and costs, due thereon, and which shall not have been redeemed by or for the original proprietor, within the time limited by law, to the purchasers of such lands or lots, or their legal representatives: *Provided, however, and it is further enacted*, That no such deed shall be executed except for lands or lots contained in the transcripts filed with the clerk of the proper district court, in conformity with the preceding section, or unless the purchaser of any tract of land or lot sold for non-payment of the tax, shall have failed within three months after the passing of this act, or within three months after such sale, with the supervisor, officer acting as supervisor, or marshal, as the case may be, a receipt from the collector for the purchase-money, dated within thirty days subsequent to such sale, and specifying, distinctly, the original description of the land assessed and the quantity sold: *And provided, also*, That no such deed shall, in any case, be executed for any land purchased by or for a collector of the direct tax, and not contained in the transcript filed with the clerk of the district court; nor for any land, although not returned as redeemed by the collector, which shall appear by a certificate, or receipt of the said collector, filed with the supervisor, or officer acting as supervisor, or marshal, as the case may be, before the completion of two

years after the sale of such land, and filed by such officer with the clerk of the court, in conformity with the preceding section, to have been redeemed by or for the original proprietor by payment of the tax, charges, costs, and interest, to the said collector previous to the time limited by the first section of this act, for the transmission of transcripts by the collectors of the direct tax.

SEC. 6. *And be it further enacted*, That where any lot or tract of land shall have been sold before the passing of this act for non-payment of the direct tax, and for a larger sum than the amount of such tax, with the legal charges and costs, the collector of the said tax shall be accountable to the purchaser for the excess of money paid by such purchaser beyond the amount of such tax, charges, and costs; and deeds shall be executed in favor of such purchasers only for so much of the land as shall bear the same ratio to the whole quantity of land sold as the amount of the tax, charges, and costs, bear to the sum for which the land was sold; and whenever a deed shall be executed for a part only of any tract of land not described previous to the sale, such part shall be laid off at the expense of the purchaser, under the direction of the district court, and in conformity with the instructions given to the collector by the supervisor, or officer acting as supervisor, respecting the sales of lands sold for non-payment of direct tax: *Provided*, That hereafter it shall not be lawful for any collector of the said tax to sell more of any lot or tract of land than will pay the amount of such tax, with the legal charges and costs.

SEC. 7. *And be it further enacted*, That, for the services prescribed by this act, the following fees shall be allowed and paid by the parties respectively, that is to say:

To every supervisor for examining the transcripts of land sold, twenty-five cents; for receiving payment of the tax, charges, and costs for which any tract of land or lot may have been sold, in whole or in part, fifty cents; and for filing a certificate or receipt of the collector, deposited by the purchaser, or original proprietor, six cents.

To the marshal of the court, one dollar for preparing and executing a deed.

Approved, March 3, 1804.

An Act making appropriations for the support of Government for the year one thousand eight hundred and four.

*Be it enacted, &c.*, That, for the expenditure of the civil list in the present year, including the contingent expenses of the several Departments and officers; for the compensation of the several loan officers and their clerks, and for books and stationery for the same; for the payment of annuities and grants; for the support of the Mint establishment; for the expenses of intercourse with foreign nations; for the support of light-houses, beacons, buoys, and public piers; and for satisfying certain miscellaneous claims, the following sums be, and the same hereby are, respectively appropriated, that is to say:

For compensations granted by law to the mem-

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bers of the Senate and House of Representatives, their officers and attendants, estimated for a session of four months and a half continuance, one hundred and ninety-eight thousand nine hundred and sixty-five dollars.

For the expense of firewood, stationery, printing, and all other contingent expenses of both Houses, including the expense of printing the President's Message of the twenty-third of December, one thousand eight hundred and two, with the accompanying documents, thirty-two thousand seven hundred dollars.

For the purchase of books for the use of both Houses of Congress, the balance of the former appropriation being carried to the credit of the surplus fund, two thousand seven hundred and three dollars and five cents.

For furniture for the House of Representatives, being an expense incurred in the year one thousand eight hundred and three, twelve hundred dollars.

For compensation to the President and Vice President of the United States, thirty thousand dollars.

For compensation to the Secretary of State, clerks, and persons employed in that Department, eleven thousand three hundred and sixty dollars.

For the incidental and contingent expenses in the said Department, four thousand eight hundred dollars.

For printing and distributing copies of the laws of the first session of the eighth Congress, and printing the laws in newspapers, eight thousand two hundred and fifty dollars.

For compensation to the Secretary of the Treasury, clerks, and persons employed in his office, including those engaged in the business belonging to the late office of the Commissioner of the Revenue, fourteen thousand and ninety-two dollars and eighty-seven cents.

For expenses of translating foreign languages, allowance to the person employed in receiving and transmitting passports and sea-letters, stationery, and printing, one thousand dollars.

For compensation to the Comptroller of the Treasury, clerks, and persons employed in his office, twelve thousand nine hundred and seventy-seven dollars and eight cents.

For expense of stationery, printing, and incidental and contingent expenses in the Comptroller's office, eight hundred dollars.

For defraying the expense of preparing new certificates of registry for ships and vessels, in conformity with the law of the second of March, one thousand eight hundred and three, four thousand five hundred dollars.

For compensation to the Auditor of the Treasury, clerks, and persons employed in his office, twelve thousand two hundred and twenty dollars and ninety-three cents.

For expense of stationery, printing, and incidental and contingent expenses in the office of Auditor of the Treasury, five hundred dollars.

For compensation to the Treasurer, clerks, and persons employed in his office, six thousand two hundred and twenty-seven dollars and forty-five cents.

For the expense of stationery, printing, and incidental and contingent expenses in the Treasurer's office, three hundred dollars.

For compensation to the Register of the Treasury, clerks, and persons employed in his office, sixteen thousand and fifty-two dollars.

For expense of stationery and printing, (including books for the public stock, and for the arrangement of the marine papers,) two thousand eight hundred dollars.

For the expense of printing and transmitting the certificates of the six per cent. stock, created by virtue of the act of the tenth of November, one thousand eight hundred and three, one thousand five hundred dollars.

For compensation to the Secretary of the Commissioners of the Sinking Fund, two hundred and fifty dollars.

For compensation of the clerks employed for the purpose of making draughts of the several surveys of land in the Territory of the United States Northwest of the river Ohio, and in keeping the books of the Treasury in relation to the sales of lands at the several land offices, two thousand dollars.

For fuel and other contingent expenses of the Treasury Department, four thousand dollars:

For defraying the expenses incident to the stating and printing the public accounts for the year one thousand eight hundred and four, one thousand two hundred dollars.

For purchasing books, maps, and charts, for the use of the Treasury Department, four hundred dollars.

For compensation to a superintendent employed to secure the buildings and records of the Treasury, during the year one thousand eight hundred and four, including the expense of two watchmen, and for the repair of two fire engines, and other incidental expenses, one thousand one hundred dollars.

For compensation to Secretary of War, clerks, and persons employed in his office, eleven thousand two hundred and fifty dollars.

For the expenses of fuel, stationery, printing, and other contingent expenses of the office of the Secretary of War, including certain contingent expenses incurred in the year one thousand eight hundred and one, one thousand one hundred and fifty dollars and two cents.

For compensation to the Accountant of the War Department, clerks, and persons employed in his office, ten thousand nine hundred and ten dollars.

For contingent expenses in the office of the Accountant of the War Department, one thousand dollars.

For compensation to clerks employed in the Paymaster's office, one thousand eight hundred dollars.

For fuel in the said office, ninety dollars.

For compensation to the Purveyor of Public Supplies, clerks, and persons employed in his office, including a sum of twelve hundred dollars for compensation to his clerks, in addition to the sum allowed by the act of the second day of March, one thousand seven hundred and ninety-

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nine, and for expense of stationery, store rent, and fuel for the said office, four thousand eight hundred dollars.

For extra expenses incurred by the removal of the office of Purveyor of Public Supplies from Philadelphia to Germantown, in the year one thousand eight hundred and three, two hundred and three dollars.

For compensation to the Secretary of the Navy, clerks, and persons employed in his office, nine thousand one hundred and ten dollars.

For expense of fuel, stationery, printing, and other contingent expenses in the office of the Secretary of the Navy, two thousand dollars.

For compensation to the Accountant of the Navy, clerks, and persons employed in his office, including the sum of one thousand one hundred dollars for compensation to his clerks, in addition to the sum allowed by the act of the second of March, one thousand seven hundred and ninety-nine, ten thousand four hundred and ten dollars.

For contingent expenses in the office of the Accountant of the Navy, seven hundred and fifty dollars.

For compensation to the Postmaster General, Assistant Postmaster General, clerks, and persons employed in the Postmaster General's office, including a sum of four thousand five hundred and ninety-five dollars, for compensation to his clerks in addition to the sum allowed by the act of the second of March, one thousand seven hundred and ninety-nine, thirteen thousand nine hundred and fifty-five dollars.

For expense of fuel, candles, house rent for the messenger, stationery, chests, &c., exclusive of expenses of prosecution, portmanteaus, mail locks, and other expenses incident to the department, these being paid for by the Postmaster General out of the funds of the office, two thousand dollars.

For compensation to the several loan officers, thirteen thousand three hundred and thirty-three dollars and thirteen cents.

For compensation to the clerks of the several commissioners of loans, and an allowance to certain loan officers, in lieu of clerk hire, and to defray the authorized expenses of the several loan offices, thirteen thousand dollars.

For extra expenses occasioned by the removal of the loan office of Pennsylvania to Germantown, during the summer of one thousand eight hundred and three, three hundred and forty-nine dollars.

For defraying the expense of clerk hire in the office of the Commissioner of Loans of the State of Pennsylvania, in consequence of the removal of the offices of the Treasury Department, in the year one thousand eight hundred, to the permanent seat of Government, two thousand dollars.

For compensation to the Surveyor General, and the clerks employed by him, and for expense of stationery and other contingencies of the Surveyor General's office, three thousand two hundred dollars.

For compensation to the surveyor of the lands south of the State of Tennessee, clerks employed

in his office, stationery, and other contingencies, two thousand seven hundred dollars.

For compensation to the officers of the Mint :

The Director, two thousand dollars ;

The Treasurer, one thousand two hundred dollars ;

The Assayer, one thousand five hundred dollars ;

The Chief Coiner, one thousand five hundred dollars ;

The Melter and Refiner, one thousand five hundred dollars ;

The Engraver, one thousand two hundred dollars ; and one clerk, at seven hundred dollars ;

And two, at five hundred dollars each.

For the wages of persons employed at the different branches of melting, coining, carpenters, millwrights, and smith's work, including the sum of eight hundred dollars per annum allowed to an assistant coiner and die-forgers, who also oversees the execution of the iron work, six thousand five hundred dollars.

For the repairs of furnaces, cost of rollers and screws, timber, bar-iron, lead, steel, potash, and for all other contingencies of the Mint, two thousand nine hundred dollars.

For compensation to the Governor, judges, and secretary of the Mississippi Territory, including a sum of eighty-two dollars for the compensation of one of the judges, which has been carried to the credit of the surplus fund, five thousand two hundred and thirty-two dollars.

For expenses of stationery, office rent, and other contingent expenses in the said Territory, three hundred and fifty dollars.

For compensation to the Governor, judges, and secretary of the Indiana Territory, five thousand one hundred and fifty dollars.

For expenses of stationery, office rent, and other contingent expenses in the said Territory, three hundred and fifty dollars.

For the discharge of such demands against the United States, on account of the civil department, not otherwise provided for, as shall have been admitted in a due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, two thousand dollars.

For additional compensation to the clerks of the several Departments of State, Treasury, War, and Navy, and of the General Post Office, not exceeding for each department, respectively, fifteen per centum, in addition to the sums allowed by the act, entitled "An act to regulate and fix the compensation of clerks," eleven thousand eight hundred and eighty-five dollars.

For compensation granted by law to the Chief Justice, Associate Judges, and District Judges of the United States, including the chief justice and two associate judges of the District of Columbia, and to the Attorney General, and including also one thousand dollars for the compensation of the District Judge of Ohio, for the year one thousand eight hundred and three, fifty-four thousand nine hundred dollars.

For compensation to the marshals of the districts of Maine, New Hampshire, Vermont, Ken-



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tucky, Ohio, East and West Tennessee, one thousand four hundred dollars.

For the like compensation granted to the several district attorneys of the United States, two thousand eight hundred dollars.

For defraying the expenses of the supreme, circuit, and district courts of the United States, including the District of Columbia, and of jurors and witnesses, in aid of the funds arising from fines, forfeitures, and penalties; and likewise, for defraying the expenses of prosecution for offences against the United States, and for safe-keeping of prisoners, forty thousand dollars.

For the payment of sundry pensions granted by the late Government, nine hundred dollars.

For the payment of an annuity granted to the children of the late Colonel John Harding and Major Alexander Trueman, by an act of Congress passed the fourteenth of May, one thousand eight hundred and six, six hundred dollars.

For the payment of the annual allowance to the invalid pensioners of the United States, from the fifth of March, one thousand eight hundred and four, to the fourth of March, one thousand eight hundred and five, ninety-eight thousand dollars.

For the maintenance and support of light-houses, beacons, buoys, and public piers, and stakeage of channels, bars, and shoals, and certain contingent expenses, fifty-five thousand nine hundred and fifty-one dollars and thirty-three cents.

For the erection of a light-house on New Point Comfort, five thousand dollars, being the amount of a former appropriation carried to the credit of the surplus fund.

For the payment of balances due on the contracts for erecting the light-houses on Old Point Comfort and Smith's Point, and for the inspection of the work, the balance of the former appropriations being carried to the credit of the surplus fund, two thousand dollars.

For erecting a light house on Gull's Island, in the sound, between Long Island and the main, in addition to the sum heretofore appropriated for that purpose, three thousand five hundred dollars.

For defraying the expenses incident to the purchase or erection of certain warehouses and wharves, under the act respecting quarantine and health laws, in addition to the sums heretofore appropriated for that purpose, five thousand dollars; and so much of the sums received on account of storage for merchandise deposited in the public warehouses under said act, as may be necessary, is hereby appropriated to the erection and repairs of the warehouses, and to carry the said act into effect.

For defraying the expenses incident to the valuation of lands and houses, and enumeration of slaves within the United States, as directed by the act of the ninth of July, one thousand seven hundred and ninety-eight, the balance of former appropriations having been carried to the credit of the surplus fund, three thousand dollars.

For the purpose of carrying into effect the act of the third of March, one thousand eight hun-

dred and three, in relation to the lands south of the State of Tennessee, in addition to the sum therein appropriated, ten thousand dollars.

For the discharge of such miscellaneous demands against the United States, not otherwise provided for, as shall have been admitted in due course of settlement at the Treasury, and which are of a nature, according to the usage thereof, to require payment in specie, four thousand dollars.

For furniture for the President's house, being the balance of a former appropriation carried to the credit of the surplus fund, one hundred and forty-five dollars and seventeen cents.

For expenses of intercourse with foreign nations, including the compensation of the Consuls at the several Barbary Powers, forty-six thousand five hundred and fifty dollars.

For the other expenses of the intercourse between the United States and Algiers, and other Barbary Powers, one hundred thousand dollars.

For carrying into effect the treaty between the United States and the King of Spain, the balance of former appropriations having been carried to the credit of the surplus fund, thirty-two thousand seven hundred and forty-seven dollars and thirty-six cents.

For the relief and protection of distressed American seamen, ten thousand dollars.

For salaries of the agents in Paris and Madrid, for prosecuting claims in relation to captures, three thousand three hundred and fifty dollars.

For satisfying a balance due to John Habersham, late agent for supplying the troops in Georgia, nine thousand and fifty-five dollars and seven cents.

For the relief of sick or disabled American seamen at New Orleans, in addition to the appropriations heretofore made for that purpose, one thousand dollars.

For discharging such sums as may, on settlement of their accounts by the accounting officers of the Treasury, be found due to persons whose property was taken for the use of the militia employed on the expedition to suppress the former insurrection in the western counties of Pennsylvania, one thousand dollars.

Sec. 2. *And be it further enacted*, That the several appropriations herein-before made, shall be paid and discharged out of the fund of six hundred thousand dollars, reserved by the act making provision for the debt of the United States, and out of any moneys in the Treasury not otherwise appropriated.

Sec. 3. *And be it further enacted*, That the sum which shall be found due on a settlement of the accounts of the militia who served on an expedition commanded by Major Thomas Johnson against the Indians, in the year one thousand seven hundred and ninety-four, be paid out of any moneys in the Treasury not otherwise appropriated, the appropriation made by the act of the thirteenth of May, one thousand eight hundred, having been carried to the credit of the surplus fund.

Approved, March 14, 1804.

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An Act declaring the assent of Congress to an act of the General Assembly of Virginia, therein mentioned.

*Be it enacted, &c.,* That the assent of Congress is hereby given and declared to an act of the General Assembly of Virginia, entitled "An act for improving the navigation of James river," which act was passed on the twenty-third day of January, in the year one thousand eight hundred and four.

Approved, March 16, 1804.

An Act to revive and continue in force an act, entitled "An act for the relief of the refugees from the British Provinces of Canada and Nova Scotia."

*Be it enacted, &c.,* That the act, entitled "An act for the relief of the refugees from the British provinces of Canada and Nova Scotia," approved on the seventh of April, one thousand seven hundred and ninety-eight, shall be, and the same is hereby revived and continued in force for the term of two years from the passage of this act, and no longer.

Approved, March, 16, 1804.

An Act making an appropriation for carrying into effect the Convention concluded between the United States and the King of Spain, on the eleventh day of August, one thousand eight hundred and two.

*Be it enacted, &c.,* That, for the purpose of defraying the expense which may arise in carrying into effect the convention concluded between the United States and the King of Spain, on the eleventh day of August, one thousand eight hundred and two, the following sums, to be paid out of any moneys in the Treasury, not otherwise appropriated, be, and the same are hereby appropriated—that is to say:

For the salaries of the commissioners, including half the compensation of the fifth commissioner, half the expenses of the board, and the contingent expenses of the commissioners of the United States, twelve thousand seven hundred and sixty dollars: *Provided,* That the compensation to be allowed to any of the commissioners, who may be appointed in pursuance of the said convention, shall not exceed the rate of four thousand four hundred and forty-four dollars per annum.

For the salary of an agent, whom the President of the United States is hereby authorized to appoint, for the purpose of supporting the claims of citizens of the United States before the Board of Commissioners, and to whom a compensation, not exceeding the rate of three thousand dollars per annum, may be allowed, three thousand dollars.

*Sec. 2. And be it further enacted,* That the President of the United States be, and he hereby is, authorized to make the appointment of the said commissioners and agent, during the recess of the Senate, and to grant to the persons thus appointed, commissions, which shall remain in force until the end of the next session of Congress, and no longer.

*Sec. 3. And be it further enacted,* That this

act shall take effect and be in force, from and after the day when the exchange of ratifications of the said convention shall be made.

Approved, March 16, 1804.

An Act to provide for Light-houses and Buoys in the cases therein mentioned.

*Be it enacted, &c.,* That as soon as the proprietor of the south end or point of St. Simon's island, in the State of Georgia, shall convey, by good and sufficient titles, unto the United States, so much land on the south end of the said island as the President of the United States shall deem sufficient and most proper for the site and accommodation of a light-house, and the jurisdiction of the land, so to be conveyed, shall have been ceded to the United States, by the State of Georgia, it shall be the duty of the Secretary of the Treasury to provide by contract, which shall be approved by the President of the United States, for building a light-house thereon, and for furnishing the same with all necessary supplies, and also to agree for the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of the same. And the President is hereby authorized to make the said appointments.

*Sec. 2. And be it further enacted,* That the Secretary of the Treasury, under the direction of the President, be authorized and required to cause to be placed a buoy or buoys at such place or places on or near the bar of St. Simon's, as may conduce to the safe pilotage of vessels to and from the ports of Brunswick and Frederica.

*Sec. 3. And be it further enacted,* That it shall be lawful for the Secretary of the Treasury to cause to be rebuilt, in such manner as he may deem expedient, the light-house at Clark's Point within the town of New Bedford, in the State of Massachusetts.

*Sec. 4. And be it further enacted,* That the Secretary of the Treasury shall be, and he is hereby, authorized and required to cause a sufficient light-house to be erected on Five-mile Point, so called, near the entrance of the harbor of New Haven in the State of Connecticut, and to appoint a keeper, and otherwise provide for such light-house at the expense of the United States: *Provided,* That sufficient land for the accommodation of such light-house can be obtained at a reasonable price, and the Legislature of Connecticut shall cede the jurisdiction over the same to the United States.

*Sec. 4. And be it further enacted,* That there be appropriated for the purpose of defraying the charges and expenses to be incurred in executing the two first sections of this act, the sum of seven thousand dollars; for rebuilding the light-house, as aforesaid, at Clark's Point, a sum not exceeding two thousand five hundred dollars; and for the erection of a light-house at the Five-mile Point aforesaid, a sum not exceeding two thousand five hundred dollars; which sums shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 16, 1804.

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An Act granting further time for locating Military Land Warrants, and for other purposes.

*Be it enacted, &c.,* That the act, entitled "An act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services and for the Society of the United Brethren for propagating the Gospel among the Heathen,'" approved the twenty-sixth day of April, eighteen hundred and two, be, and the same is hereby, revived and continued in force until the first day of April, one thousand eight hundred and five: *Provided, however,* That the holders or proprietors of warrants or registered certificates, shall and may locate the same only on any unlocated parts of the fifty quarter townships, and the fractional quarter townships which had been reserved for original holders by virtue of the fifth section of an act, entitled "An act in addition to an act, entitled 'An act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen:'" *And provided, also,* That no holder or proprietor of warrants or registered certificates shall be permitted to locate the same by virtue of this act, unless the Secretary of War shall have made an endorsement on such warrant or registered certificate, certifying that no warrant has been issued for the same claim to military bounty land; and by virtue of the second section of the act, entitled "An act to revive and continue in force an act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services, and for the Society of the United Brethren for propagating the Gospel among the Heathen, and for other purposes,'" approved the third day of March, one thousand eight hundred and three.

Approved, March 19, 1804.

An Act providing for the expenses of the Civil Government of Louisiana.

*Be it enacted, &c.,* That all the moneys which have been, or which shall be, received by any officer of the United States, on account of duties or taxes within the territories ceded by the French Republic to the United States, by the Treaty of the thirtieth day of April, eighteen hundred and three, shall be paid into the Treasury, and accounted for in the same manner as other public moneys.

SEC. 2. *And be it further enacted,* That, for the purpose of making a reasonable compensation to the person or persons in whom the powers of civil government, heretofore exercised by the officers of the said territories under the Spanish and French Governments, have been vested by the President of the United States, and also for defraying the other civil expenses of the said territories, from the time when possession of the same was obtained by the United States, to the time when a form of Government shall, under the authority of Congress, be established therein, a sum not exceeding twenty thousand dollars, to be expended under the direction of the President of the United States,

and to be accounted for as other public moneys, shall be and the same is hereby, appropriated, to be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 19, 1804.

An Act for the relief of the sufferers by fire, in the town of Norfolk.

*Be it enacted, &c.,* That all persons who, being indebted to the United States for duties on merchandise, have given bond therefor, with one or more sureties, payable to the collector for the district of Norfolk and Portsmouth, and who have suffered a loss of property by the late conflagration in the town of Norfolk, shall be, and they hereby are, allowed to take up, or have cancelled, all bonds heretofore given for duties as aforesaid, upon giving to the collector new bonds, with one or more sureties, to the satisfaction of the said collector, for the sums of their former bonds, respectively, payable in twelve months from and after the day of payment specified in the bonds to be taken up or cancelled, as aforesaid; and the said collector is hereby authorized and directed to give up or cancel all such bonds upon the receipt of others, as described in this act, which last mentioned bonds shall be proceeded with in all respects like other bonds which are taken by collectors for duties due to the United States: *Provided, however,* That nothing in this act contained shall extend to bonds which had fallen due before the nineteenth day of February last.

Approved, March 19, 1804.

An Act making an appropriation for defraying the expenses incurred in inquiring into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering.

*Be it enacted, &c.,* That the sum of two thousand dollars be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, for the payment of such expenses as may have been or hereafter may be incurred in prosecuting the inquiry into the official conduct of Samuel Chase and Richard Peters, and in conducting the impeachment against John Pickering.

SEC. 2. *And be it further enacted,* That to every witness summoned to attend the Senate in support of the said impeachment, there shall be allowed for every day's attendance, the sum of three dollars, and at the rate of twelve-and-a-half cents per mile, in coming from and returning to his place of abode, for travelling expenses.

SEC. 3. *And be it further enacted,* That any other expense certified by the chairman of any committee, appointed to conduct the said inquiry or impeachment, to have been authorized by him, shall also be allowed and paid.

Approved, March 19, 1804.

An Act for the relief of the captors of the Moorish armed ships Meshouda and Mirboha.

*Be it enacted, &c.,* That the sum of eight thousand five hundred and ninety-four dollars and

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fifty cents, being one moiety of the value of the armed ship Meshouda, captured by the frigate John Adams, commanded by Captain John Rodgers, and restored to the Emperor of Morocco, be, and the same is hereby appropriated for defraying the expense of prize money due to the captors; and that the further sum of seven hundred and thirty-eight dollars and twenty-five cents be, and the same is hereby appropriated for defraying the expenses incurred for the said ship, whilst in possession of the captors.

SEC. 2. *And be it further enacted*, That the further sum of five thousand dollars be, and the same hereby is appropriated, for defraying the expense of prize money due to the officers and crew of the frigate Philadelphia, commanded by Captain William Bainbridge, being one moiety of the value of the armed ship Mirboha, captured by the aforesaid frigate Philadelphia, and likewise restored to the Emperor of Morocco.

SEC. 3. *And be it further enacted*, That the aforesaid several sums shall be divided amongst the captors respectively, in the proportion already established by law, for the distribution of prize money, and shall be paid out of any moneys in the Treasury not otherwise appropriated.

Approved, March 19, 1804.

An Act altering the sessions of the District Courts of the United States for the districts of Virginia, Rhode Island, and for the district of West Tennessee.

*Be it enacted, &c.*, That the sessions of the district court for the district of Virginia, directed by law to be held in the town of Norfolk, shall be hereafter held and commence on the fifteenth day of June, and on the fifteenth day December, in every year; and that the sessions of the said court, directed by law to be held in the city of Richmond, shall be held and commence on the nineteenth day of May, and on the nineteenth day of November, in every year.

SEC. 2. *And be it further enacted*, That when either of the said days shall happen to be a Sunday, the sessions of the said court shall commence on the following day.

SEC. 3. *And be it further enacted*, That all writs and process which have been issued, and all recognizances returnable, and all suits and other pleadings which have been continued to the said district court, directed by law to be holden in Norfolk, on the third Tuesday in March next, shall be returned and held continued to the fifteenth day of June next; and in like manner, all writs and process which have been issued, and recognizances returnable, and all suits and other proceeding which have been continued to the said district court, directed by law to be held in the city of Richmond, on the third Tuesday in June next, shall be returned and held continued to the nineteenth day of May next.

SEC. 4. *And be it further enacted*, That, from and after the first day of April next, the session of the district court for the district of Rhode Island shall commence at Newport, on the second Tuesday in May, and third Tuesday in Octo-

ber; at Providence, the first Tuesday in August, and the first Tuesday in February, annually, any law to the contrary notwithstanding.

SEC. 5. *And be it further enacted*, That all suits, process, and proceedings, of what nature or kind soever, pending in, or made returnable to said court, shall, after the said first day of April next, be continued over until the next court to be held in conformity to this act.

SEC. 6. *And be it further enacted*, That the sessions of the district court for the district of West Tennessee, directed by law to be held in the town of Nashville, shall be hereafter held and commence on the Thursday next succeeding the fourth Mondays of May and November, in every year; and that all writs and process which have been issued, and all recognizances returnable, and all suits and other proceedings which have been continued to the said district court directed by law to be held at Nashville, on the fourth Monday of May next, shall be returned, and held continued to the Thursday next succeeding the said fourth Monday.

Approved, March 23, 1804.

An Act supplementary to the act, entitled "An act to incorporate the subscribers to the Bank of the United States."

*Be it enacted, &c.*, That the President and Directors of the Bank of the United States shall be, and they are hereby, authorized to establish offices of discount and deposit in any part of the territories or dependencies of the United States, in the manner, and on the terms prescribed by the act to which this is a supplement.

Approved, March 23, 1804.

An Act to ascertain the boundary of the lands reserved by the State of Virginia, northwest of the river Ohio, for the satisfaction of her officers and soldiers on Continental Establishment, and to limit the period for locating the said lands.

*Be it enacted, &c.*, That the line run under the direction of the Surveyor General of the United States, from the source of the Little Miami, towards the source of the Scioto, and which binds on the east the surveys of the lands of the United States, shall, together with its course continued to the Scioto river, be considered and held as the western boundary line, north of the source of the Little Miami, of the territory reserved by the State of Virginia, between the Little Miami and Scioto rivers, for the use of the officers and soldiers of the Continental line of that State: *Provided*, That the State of Virginia shall, within two years after the passing of this act, recognise such line as the boundary of the said territory.

SEC. 2. *And be it further enacted*, That all the officers and soldiers, or their legal representatives, who are entitled to bounty lands within the above-mentioned reserved territory, shall complete their locations within three years after the passing of this act, and every such officer and soldier, or his legal representative, whose bounty land has, or shall have been located within that part of the said territory, to which the Indian title has been

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extinguished, shall make return of his or their surveys to the Secretary of the Department of War, within five years after the passing of this act, and shall also exhibit and file with the said Secretary, and within the same time, the original warrant or warrants under which he claims, or a certified copy thereof, under the seal of the office where the said warrants are legally kept; which warrant, or certified copy thereof, shall be sufficient evidence that the grantee therein named, or the person under whom such grantee claims, was originally entitled to such bounty land; and every person entitled to said lands, and thus applying shall thereupon be entitled to receive a patent in the manner prescribed by law.

Sec. 3. *And be it further enacted*, That such part of the above-mentioned reserved territory as shall not have been located, and those tracts of land within that part of the said territory to which the Indian title has been extinguished, the surveys whereof shall not have been returned to the Secretary of War, within the time and times prescribed by this act, shall thenceforth be released from any claim or claims for such bounty lands, and shall be disposed of in conformity with the provisions of the act, entitled "An act in addition to, and modification of the propositions contained in the act, entitled 'An act to enable the people of the eastern division of the Territory Northwest of the river Ohio, to form a Constitution and State government, and for the admission of such State into the Union, on an equal footing with the original States, and for other purposes.'"

Approved, March 23, 1804.

An Act further to alter and establish certain Post Roads; and for other purposes.

*Be it enacted, &c.*, That the following post roads be discontinued:

*In North Carolina*—From Woodstock to Hyde Court-house; from Halifax to Tarborough; and from Tarborough to Louisburg.

*In Virginia*—From Lexington, by Amherst Springs, to Cabelsborough; from Pendleton Court-house to Bath Court-house, and from Alexandria to Piscataway, in Maryland.

*In Kentucky*—From Hartford, by Vienna, to Muhlenburg Court-house.

*In Ohio*—From Zanesville to Marietta; and from Cincinnati to Detroit.

*In Maryland*—From Westminster to Taneytown; from Emmitsburg to Fairfield, in Pennsylvania; from Elkton to Sassafras; from Bridgetown to Greenborough, and from Rockville to Taneytown.

*In Pennsylvania*—From Pittsburg to Meadsville.

*In Massachusetts*—From Worcester to Providence in Rhode Island.

*In Vermont*—From Newbury, by Barry, to Montpelier.

*In New York*—From the town of Chester, in Washington county, to Plattsburg.

Sec. 2. *And be it further enacted*, That the following post roads be established, to wit:

*In Georgia*—From Athens to Walkinsville.

*In South Carolina*—From Orangeburg, by Barnwell Court-house, Tredways, and Town-creek mills, to Campbellton; and from Statesburg to Columbia.

*In North Carolina*—From Warrenton, by Ransom's bridge and Enfield, to Tarborough; and to return by Nash Court-house, Sill's Store, and Ransom's Bridge, to Warrenton; from Halifax to Enfield; from Scotland Neck, by Granbury's Cross-roads, to Windsor; and from Newbern to the town of Beaufort; from Raleigh, by Nutall's store, to Merrittsville.

*In Virginia*—From Fredericksburg, by Fal-mouth, Elk Run Church, Fauquier Court-house, and Salem, to Paris; from Clarksburg, by Buchanan Settlement, to Randolph Court-house; from Lancaster Court-house to Kilmarnock; and from Kenawha Court-house, by Point Pleasant, to Gallipolis, in Ohio; from thence to the Scioto Salt Springs; and from Prince Edward Court-house, by Lester's Store, Wheeler's Springs, and Campbell's Court-house, to New London; from Danville in Virginia, to Lenox's Castle, in North Carolina; and from Wood Court-house to Marietta.

*In Kentucky*—From Springfield, by Green Court-house, Adair Court-house, and Cumberland Court-house, to Jackson Court-house in Tennessee; and from thence to Blackburn Springs; from John Wood's, near the Hazle Patch, to Lincoln Court-house; from the town of Washington to Augusta; from Frankfort to Henry Court-house; that the post road from Montgomery Court-house to Fleming Court-house shall pass, by Slate Creek Iron-Works and the Upper Blue Licks; and the post road from Hartford to Logan Court-house shall pass by Muhlenburg Court-house.

*In Tennessee*—From Dixon's Springs, by Lebanon and Rutherford Court-house, to Nashville; and that the post road from Nashville to Springfield shall pass by Mansker's Lick.

*In Ohio*—From Warren, in the county of Trumbull, by Cleveland, to Detroit; from Chillicothe to Alexandria; from Steubenville to New Lisbon; from Chillicothe to Franklin; from Cincinnati, through Franklin and Dayton, to Stanton, from thence through Wainville and Deerfield to Charleston; from Zanesville to Tuscorowa, to Guadenhutten; and that the post road from Georgetown to Canfield, shall pass through New Lisbon.

*In Pennsylvania*—From Alexandria, through Hollidaysburg, Beula, and Armagh, to Greensburg; from Pittsburg, through Butler and Mercer, to Meadsville; from Bedford by Berlin, to Somerset; from Chambersburg, through Strasburg and Fannetsburg, to Huntingdon.

*In New Jersey*—From Ringoe's Tavern, by Somerset Court-house, Boundbrook, Scotch Plains and Springfield, to Newark; and from Rahway, by Scotch Plains, to New Providence.

*In New York*—From Kingston through Catskill, Lunenburg, and Coxackie, to the city of Albany; from Lansingburg, through Schaghticoke, Easton, Argyle, and Hartford, to Whitehall;

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from Oswego to Aurora; from Unadilla to Cooperstown; from the Little Falls, on the Mohawk river, to the Academy in Fairfield; from Kingston, by Delhi, to the post office in Meredith; from Walton to Jericho; from the Painted Post, in the State of New York, to Williamsport, in the State of Pennsylvania; the post road from Canandaigua to Niagara shall pass by Buffalo Creek.

*In Connecticut*—From Hartford, through Granby and Granville, to Blandford, in Massachusetts; from New Haven, through Hamden, Cheshire, and Southington, to Farmington; and from Hartford, through Glastenbury and Colchester, to New London.

*In Massachusetts*—From Shrewsbury, through Holden, Rutland, Oakham, Hardwick, Greenwich, Pelham and Amherst, to Northampton.

*In Maine*—From Brunswick, by Litchfield and Hallowell, to Augusta; from Wiscasset to Boothbay; and from Fryburgh, through Conway, the Notch of the White Mountain, Jefferson, Lancaster, to Guildhall Court-house, in Vermont.

*In New Hampshire*—From Haverhill, in Massachusetts, to pass through Salem to Windham in New Hampshire; from Alsop to Conway; from Salisbury to Plymouth, alternately on each side of Merimack river; from Littleton to Guildhall Court-house, alternately on each side of Connecticut river; from Littleton, through St. Johnsbury and Danville in Vermont, to St. Alban's on Lake Champlain.

*In Louisiana*—From Massac, on the Ohio river, to Cape Girardeau in Louisiana; from thence to New Madrid; from the said Cape Girardeau, by St. Genevieve, to Kaskaskias in the Indiana Territory; and from Cahokia to St. Louis in Louisiana; from Natchez to Tombigby; and from Natchez to New Orleans.

SEC. 3. *And be it further enacted*, That all letters, returns, and other papers on public service, sent by mail to or from the offices of Inspector and Paymaster of the Army, shall be received and conveyed free of postage.

SEC. 4. *And be it further enacted*, That whenever it shall be made to appear to the satisfaction of the Postmaster General, that any road established by this or any former act, as a post road, is obstructed by fences, gates, or bars, other than those lawfully used on turnpike roads to collect their toll, and not kept in good repair with proper bridges and ferries, where the same may be necessary, it shall be the duty of the Postmaster General to report the same to Congress, with such information as can be obtained, to enable Congress to establish some other road instead of it in the same main direction.

SEC. 5. *And be it further enacted*, That this act shall not be so construed as to affect any existing contract for carrying the mail.

Approved, March 26, 1804.

An act making provision for the disposal of the public lands in the Indiana Territory; and for other purposes.

*Be it enacted, &c.*, That the power vested by law in the surveyor general, shall extend over all

the public lands of the United States to which the Indian title has been or shall hereafter be extinguished, north of the river Ohio, and east of the river Mississippi; and it shall be the duty of the said surveyor general to cause the said lands to be surveyed into townships, six miles square, and divided in the same manner and under the same regulations; and to do and perform all such other acts in relation to the said lands, as is provided by law in relation to the lands of the United States, situate northwest of the river Ohio and above the mouth of Kentucky river: *Provided*, That the whole expense of surveying and marking the line shall not exceed three dollars for every mile that shall be actually run, surveyed, and marked: *And provided also*, That such tracts of land as are lawfully claimed by individuals within the said boundaries, and the title whereof has been or shall be recognised by the United States, shall be laid out and surveyed at the expense of the parties respectively, in conformity with the true boundaries of such tracts. And it shall also be the duty of the said surveyor general to cause to be run, surveyed, and marked such of the Indian boundary lines of the said lands, as have not yet been surveyed; and with the approbation of the President of the United States to ascertain by astronomical observations the positions of such places north of the river Ohio and east of the river Mississippi, as may be deemed necessary for the correctness of the surveys, and to the most important points of the geography of the country.

SEC. 2. *And be it further enacted*, That, for the disposal of the lands of the United States north of the river Ohio and east of the river Mississippi, in the Indiana Territory, three land offices shall be established in the same, one at Detroit, for the lands lying north of the State of Ohio to which the Indian title has been extinguished; one at Vincennes for the lands to which the Indian title has been extinguished, and which are included within the boundaries fixed by the treaty lately held with the Indian tribes of the Wabash; and one at Kaskaskia, for so much of the lands included within the boundaries fixed by the treaty of the thirteenth of August, one thousand eight hundred and three, with the Kaskaskia tribe of Indians, as is not claimed by any other Indian tribe; and for each of the said offices a register and a receiver of public moneys shall be appointed, who shall give security in the same manner, in the same sums, and whose compensation, emoluments and duties, and authority, shall, in every respect, be the same in relation to the lands which shall be disposed of at their offices, as are or may be by law provided, in relation to the registers and the receivers of public moneys in the several offices established for the disposal of the lands of the United States north of the river Ohio, and above the mouth of Kentucky river.

SEC. 3. *And be it further enacted*, That every person claiming lands within any of the three tracts of land described in the preceding section, by virtue of any legal grant made by the French Government, prior to the Treaty of Paris, of the tenth of February, one thousand seven hundred

and sixty-three, or of any legal grant made by the British Government, subsequent to the said treaty, and prior to the Treaty of Peace between the United States and Great Britain, of the third of September, one thousand seven hundred and eighty-three, or of any resolution, or act of Congress, subsequent to the said treaty of peace, shall, on or before the first day of January, one thousand eight hundred and five, deliver to the register of the land office, within whose district the land may lie, a notice in writing, stating the nature and extent of his claims, together with a plot of the tract or tracts claimed, and may also, on or before that day, deliver to the said register, for the purpose of being recorded, every grant, order of survey, deed, conveyance, or other written evidence of his claim; and the same shall be recorded by the said register, in books to be kept for that purpose, on receiving from the parties at the rate of twelve and a half cents for every hundred words contained in such written evidence of their claim; and if such person shall neglect to deliver such notice, in writing, of his claim, or to cause to be recorded such written evidence of the same, all his right, so far as the same is derived from any resolution or act of Congress, shall become void, and forever be barred.

SEC. 4. *And be it further enacted.* That the register and receiver of public moneys, of the three above mentioned land offices, shall, for the land respectively lying within their districts, be commissioners for the purpose of examining the claims of persons claiming lands by virtue of the preceding sections. Each of the said commissioners shall, previous to the entering on the duties of his appointment respectively, take and subscribe the following oath or affirmation, before some person qualified to administer the same: "I, ———, do solemnly swear (or affirm) that I will impartially exercise and discharge the duties imposed upon me, as commissioner for examining the claims to land, by an act of Congress, entitled "An act making provision for the disposal of the public lands in the Indiana Territory; and for other purposes."

It shall be the duty of the said commissioners to meet at the places where the said land offices are by this act established, respectively, on or before the first day of January, one thousand eight hundred and five; and each board shall, in their respective districts, have power to hear in a summary manner all matters respecting such claims; also to compel the attendance of witnesses, to administer oaths, and examine witnesses, and such other testimony as may be adduced, and to decide thereon according to justice and equity, which decision shall be made before Congress in the manner hereinafter directed, and be subject to their decision thereon. The said boards, respectively, shall have power to appoint a clerk, whose duty it shall be to enter in a book to be kept for that purpose, full and correct minutes of their proceedings and decisions, together with the evidence on which such decisions are made; which books and papers, on the dissolution of the boards, shall be deposited in the respective offices of the registers of the land offices; and the said clerk shall

prepare two transcripts of all the decisions made by the said commissioners in favor of the claimants to land, both of which shall be signed by the said commissioners, and one of which shall be transmitted to the surveyor general, and the other to the Secretary of the Treasury; and the lands, the claims to which shall have been thus affirmed by the commissioners, shall not be otherwise disposed of, until the decision of Congress thereupon shall have been made. It shall likewise be the duty of the said commissioners to make to the Secretary of the Treasury a full report of all the claims filed with the register of the proper land office, as above directed, which they may have rejected, together with the substance of the evidence adduced in support thereof, and such remarks as they may think proper: which reports, together with the transcripts of the decisions of the commissioners in favor of the claimants, shall be laid by the Secretary of the Treasury before Congress at their next ensuing session. Each of the commissioners and clerks aforesaid shall be allowed a compensation of five hundred dollars in full for his services as such; and each of the said clerks shall, previous to his entering on the duties of his office, take and subscribe the following oath or affirmation, to wit: "I, ———, do solemnly swear (or affirm) that I will truly and faithfully discharge the duties of a clerk to the board of commissioners for examining the claims to land, as enjoined by an act of Congress, entitled "An act making provision for the disposal of the public lands in the Indiana Territory; and for other purposes."

SEC. 5. *And be it further enacted,* That all the lands aforesaid, not excepted by virtue of the preceding section, shall, with the exception of the section "number sixteen," which shall be reserved in each township for the support of schools within the same, with the exception also of an entire township in each of the three above described tracts of country or districts, to be located by the Secretary of the Treasury, for the use of a seminary of learning, and with the exception also of the salt springs and lands reserved for the use of the same as hereinafter directed, be offered for sale to the highest bidder, under the direction of the surveyor general, or Governor of the Indiana Territory, of the register of the land office, and of the receiver of public moneys, at the places respectively where the land offices are kept, and on such day or days as shall, by a public proclamation of the President of the United States, be designated for that purpose. The sales shall remain open at each place for three weeks and no longer: the lands shall not be sold for less than two dollars an acre, and shall, in every other respect, be sold in tracts of the same size and on the same terms and conditions as have been or may be by law provided for the lands sold north of the river Ohio and above the mouth of Kentucky river. All lands, other than the reserved sections and those excepted as above-mentioned, remaining unsold at the closing of the public sales, may be disposed of at private sale by the registers of the respective land offices, in the same manner, under



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the same regulations, for the same price, and on the same terms and conditions, as are or may be provided by law for the sale of the lands of the United States north of the river Ohio and above the mouth of Kentucky river. And patents shall be obtained for all lands granted or sold in the Indiana Territory, in the same manner and on the same terms as is or may be provided by law for lands sold in the State of Ohio, and in the Mississippi Territory.

SEC. 6. *And be it further enacted*, That all the navigable rivers, creeks, and waters, within the Indiana Territory, shall be deemed to be and remain public highways; and the several salt springs in the said Territory, together with as many contiguous sections each as shall be deemed necessary by the President of the United States, shall be reserved for the future disposal of the United States: And any grant which may hereafter be made for a tract of land, containing a salt spring which had been discovered previous to the purchase of such tract from the United States, shall be considered as fraudulent and null.

SEC. 7. *And be it further enacted*, That the several provisions made in favor of persons who have contracted for lands with John Cleves Symmes and his associates, by an act, entitled "An act to extend and continue in force the provisions of an act, entitled 'An act giving a right of pre-emption to certain persons who have contracted with John Cleves Symmes or his associates, for lands lying between the Miami rivers in the Territory Northwest of the Ohio, and for other purposes,'" shall be, and the same are hereby continued in force until the first day of June next: *Provided*, That the register, of the land office and receiver of the public moneys at Cincinnati shall perform the same duties, exercise the same powers, and enjoy the same emoluments, which by the last recited act were enjoined on or vested in the commissioners designated by the said act: *And provided also*, That no certificate for a right of pre-emption shall be granted, except in favor of persons who had, before the first day of January, one thousand eight hundred, made contracts in writing with John Cleves Symmes or with any of his associates, and who had made to him or them any payment or payments of money for the purchase of such lands; nor unless at least one-twentieth part of the purchase money of the land claimed, shall have previously been paid to the receiver of public moneys, or shall be paid prior to the first day of January next. And every person who shall obtain a certificate of pre-emption, shall be allowed until the first day of January, one thousand eight hundred and six, to complete the payment of his first instalment: *And provided also*, That where any person or persons shall, in virtue of a contract entered into with John Cleves Symmes, have entered and made improvements on any section or half section prior to the first day of April last, (having conformed with all the foregoing provisions in this section.) which improvements by the running of the lines subsequently thereto shall have fallen within any section or half section, other than the one pur-

chased as aforesaid, and other than section number sixteen, such section or half section shall in that case be granted to the person or persons who shall have so entered, improved, and cultivated the same, on payment of the purchase money, agreeably to the provisions made by law for lands sold at private sale; but nothing herein contained shall be construed to give to any such person or persons a greater number of acres than he or they had contracted for with John Cleves Symmes as aforesaid.

SEC. 8. *And be it further enacted*, That every person who may have heretofore obtained from the commissioners a certificate of a right of pre-emption for lands lying between the two Miami rivers, on account of contracts with, or purchase from, John Cleves Symmes or his associates, and who has paid his first instalment; and every person who may obtain a similar certificate by virtue of the preceding section, and shall, on or before the first day of January, one thousand eight hundred and six, pay his first instalment, be permitted to pay the residue of the purchase money in six annual equal payments.

SEC. 9. *And be it further enacted*, That fractional sections of the public lands of the United States, either north of the river Ohio, or south of the State of Tennessee, shall, under the directions of the Secretary of the Treasury, be either sold singly, or by uniting two or more together, any act to the contrary notwithstanding: *Provided*, That no fractional sections shall be sold in that manner until after they shall have been offered for sale to the highest bidder, in the manner hereinafter directed.

SEC. 10. *And be it further enacted*, That all the public lands of the United States, the sale of which is authorized by law, may, after they shall have been offered for sale to the highest bidder in quarter sections, as hereinafter directed, be purchased at the option of the purchaser, either in entire sections, in half sections, or in quarter sections; in which two last cases the sections shall be divided into half sections by lines running due north and south, and the half sections shall be divided into quarter sections by lines running due east and west. And in every instance in which a subdivision of the lands of the United States, as surveyed in conformity with law, shall be necessary to ascertain the boundaries or true contents of the tract purchased, the same shall be done at the expense of the purchaser.

SEC. 11. *And be it further enacted*, That no interest shall be charged on any instalment which may hereafter become due, in payment for any of the public lands of the United States, wherever situated, and which have been sold in pursuance of the act, entitled "An act to amend the act, entitled 'An act providing for the sale of the lands of the United States, in the Territory Northwest of the Ohio, and above the mouth of Kentucky river,'" or which may hereafter be sold by virtue of that, or of any other act of Congress: *Provided*, That such instalments shall be paid on the day on which the same shall become due; but the interest shall be charged and demanded in

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conformity with the provisions heretofore in force, from the date of the purchase on each instalment which shall not be paid on the day on which the same shall become due: *Provided, however*, That on the instalments which are or may become due before the first day of October next, interest shall not be charged, except from the time they became due until paid, but in failure to pay the said instalments on the said first of October, interest shall be charged thereon, in conformity with the provisions heretofore in force, from the date of the purchase.

SEC. 12. *And be it further enacted*, That the sections which have been heretofore reserved, and are by this act directed to be sold, also, the fractional sections, classed as is by the ninth section of this act directed, and all the other lands of the United States north of the Ohio, and above the mouth of Kentucky river, shall be offered for sale in quarter sections, to the highest bidder, under the directions of the register of the land office, and of the receiver of public moneys, at the places, respectively, where the land offices are kept, that is to say, the lands in the district of Chillicothe, on the first Monday of May; the lands in the district of Marietta, on the second Monday of May; the lands in the district of Zanesville, on the third Monday of May; the lands in the district of Steubenville, on the second Monday of June; and the lands in the district of Cincinnati, on the first Monday of September. The sales shall remain open at each place no longer than three weeks; the lands which may be thus sold, shall not be sold for less than two dollars per acre; and shall, in every other respect, be sold on the same terms and conditions, as is provided for the sale of lands sold at private sale. And all the other public lands of the United States, either north of the Ohio, or south of the State of Tennessee, which are directed to be sold at public sale, shall be offered for sale to the highest bidder, in quarter sections: *Provided, however*, That section number twenty-six of the third township of the second fractional range, within the grant made by the United States to John C. Symmes, on which is erected a mill-dam, is hereby granted to Joseph Vanhorne, the proprietor of the said dam; and also, that section number twenty-nine, of the second township of the fourth entire range, be granted to James Sutton; and also, that section number twenty-one, of the ninth township of the twenty-first range, be granted to Christian Van Gundy, on their payment of the purchase money, agreeably to the provisions made by law, for lands sold at private sale.

SEC. 13. *And be it further enacted*, That whenever any of the public lands shall have been surveyed in the manner directed by law, they shall be divided by the Secretary of the Treasury into convenient surveying districts; and a deputy surveyor shall, with the approbation of the said Secretary, be appointed by the surveyor general for each district, who shall take an oath or affirmation, truly and faithfully to perform the duties of his office; and whose duty it shall be to run and mark such lines as may be necessary for subdividing the lands surveyed as aforesaid, into sec-

tions, half sections, or quarter sections, as the case may be; to ascertain the true contents of such subdivisions; and to record in a book to be kept for that purpose, the surveys thus made. The surveyor general shall furnish each deputy surveyor with a copy of the plat of the townships and fractional parts of townships contained in his district, describing the subdivisions thereof, and the marks of the corners. Each deputy surveyor shall be entitled to receive from the purchaser of any tract of land, of which a line or lines shall have been run and marked by him, at the rate of three dollars for every mile thus surveyed and marked, before he shall deliver to him a copy of the plat of such tract, stating its contents. The fees payable by virtue of former laws for surveying expenses, shall, after the first day of July next, be no longer demandable from and paid by the purchasers. And no final certificate shall thereafter be given by the register of any land office to the purchaser of any tract of land, all the lines of which shall not have been run, and the contents ascertained by the surveyor general or his assistants, unless such purchaser shall lodge with the said register a plat of such tract, certified by the district surveyor.

SEC. 14. *And be it further enacted*, That from and after the first day of April next, each of the registers and receivers of public moneys of the several land offices established by law, either north of the river Ohio, or south of the State of Tennessee, shall, in addition to the commission heretofore allowed, receive one-half per cent. on all the moneys paid for public lands sold in their respective offices, and an annual salary of five hundred dollars, the register and receiver of the land office at Marietta excepted, the annual salary of whom shall be two hundred dollars. And from and after the same day the fees payable by virtue of former laws, to the registers of the several land offices, for the entry of lands and for certificate of moneys paid, shall no longer be demandable from, nor paid by, the purchasers of public lands. And it shall be the duty of the Secretary of the Treasury to cause, at least once every year, the books of the officers of the land offices to be examined, and the balance of public moneys in the hands of the several receivers of public moneys of the said offices, to be ascertained.

SEC. 15. *And be it further enacted*, That, from and after the first day of April next, the fees heretofore payable for patents for lands, shall no longer be paid by the purchasers. And it shall be the duty of every register of a land office, on application of the party, to transmit, by mail, to the register of the Treasury, the final certificate granted by such register to the purchaser of any tract of land sold at his office: and it shall be the duty of the register of the Treasury, on receiving any such certificate, to obtain and transmit by mail, to the register of the proper land office, the patent to which such purchaser is entitled; but in every such instance the party shall previously pay to the proper deputy postmaster the postage accruing on the transmission of such certificate and patent.

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SEC. 16. *And be it further enacted.* That the President of the United States shall have full power to appoint and commission the several registers and receivers of public moneys of the land offices established by this act, in the recess of Congress; and their commissions shall continue in force until the end of the session of Congress next ensuing such appointment.

SEC. 17. *And be it further enacted.* That the several superintendents of the public sales directed by this act, shall receive six dollars each for each day's attendance on the said sales.

SEC. 18. *And be it further enacted.* That a sum not exceeding twenty thousand dollars, be, and the same is hereby appropriated for the purpose of carrying this act into effect; which sum shall be paid out of any unappropriated moneys in the Treasury.

Approved, March 26, 1804.

An Act altering the time for the next Meeting of Congress.

*Be it enacted, &c.,* That after the expiration of the present session, the next meeting of Congress shall be on the first Monday of November next.

Approved, March 26, 1804.

An Act erecting Louisiana into two Territories, and providing for the Temporary Government thereof.

*Be it enacted, &c.,* That all that portion of country ceded by France to the United States, under the name of Louisiana, which lies south of the Mississippi Territory, and of an east and west line, to commence on the Mississippi river, at the thirty-third degree of north latitude, and to extend west to the western boundary of the said cession, shall constitute a Territory of the United States, under the name of the Territory of Orleans; the government whereof shall be organized and administered as follows:

SEC. 2. The Executive power shall be vested in a Governor, who shall reside in the said Territory, and hold his office during the term of three years, unless sooner removed by the President of the United States. He shall be commander-in-chief of the militia of the said Territory, shall have power to grant pardons for offences against the said Territory, and reprieves for those against the United States, until the decision of the President of the United States thereon shall be made known; and to appoint and commission all officers, civil and of the militia, whose appointments are not herein otherwise provided for, and which shall be established by law. He shall take care that the laws be faithfully executed.

SEC. 3. A Secretary of the Territory shall also be appointed, who shall hold his office during the term of four years, unless sooner removed by the President of the United States, whose duty it shall be, under the direction of the Governor, to record and preserve all the papers and proceedings of the Executive, and all the acts of the Governor and Legislative Council, and transmit authentic copies of the proceedings of the Governor in his Executive Department, every six months,

to the President of the United States. In case of the vacancy of the office of Governor, the government of the said Territory shall devolve on the Secretary.

SEC. 4. The legislative powers shall be vested in the Governor, and in thirteen of the most fit and discreet persons of the Territory, to be called the Legislative Council, who shall be appointed annually by the President of the United States from among those holding real estate therein, and who shall have resided one year at least in the said Territory, and hold no office of profit under the Territory or the United States. The Governor, by and with advice and consent of the said Legislative Council, or of a majority of them, shall have power to alter, modify, or repeal the laws which may be in force at the commencement of this act. Their Legislative powers shall also extend to all the rightful subjects of legislation; but no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint, burden, or disability, on account of his religious opinions, professions, or worship; in all which he shall be free to maintain his own, and not burdened for those of another. The Governor shall publish throughout the said Territory all the laws which shall be made, and shall from time to time report the same to the President of the United States, to be laid before Congress; which, if disapproved of by Congress, shall thenceforth be of no force. The Governor or Legislative Council shall have no power over the primary disposal of the soil, nor to tax the lands of the United States, nor to interfere with the claims to land within the said Territory. The Governor shall convene and prorogue the Legislative Council, whenever he may deem it expedient. It shall be his duty to obtain all the information in his power in relation to the customs, habits, and dispositions of the inhabitants of the said Territory, and communicate the same from time to time to the President of the United States.

SEC. 5. The judicial power shall be vested in a superior court, and in such inferior courts, and justices of the peace, as the Legislature of the Territory may from time to time establish. The judges of the superior court and the justices of the peace shall hold their offices for the term of four years. The superior court shall consist of three judges, any one of whom shall constitute a court; they shall have jurisdiction in all criminal cases, and exclusive jurisdiction in all those which are capital; and original and appellate jurisdiction in all civil cases of the value of one hundred dollars. Its sessions shall commence on the first Monday of every month, and continue till all the business depending before them shall be disposed of. They shall appoint their own clerk. In all criminal prosecutions which are capital, the trial shall be by a jury of twelve good and lawful men of the vicinage; and in all cases, criminal and civil, in the superior court, the trial shall be by a jury, if either of the parties require it. The inhabitants of the said Territory shall be entitled to the benefits of the writ of *habeas corpus*; they shall be

bailable, unless for capital offences, where the proof shall be evident, or the presumption great; and no cruel and unusual punishments shall be inflicted.

SEC. 6. The Governor, Secretary, Judges, District Attorney, Marshal, and all general officers of the militia, shall be appointed by the President of the United States in the recess of the Senate; but shall be nominated at their next meeting for their advice and consent. The Governor, Secretary, Judges, members of the Legislative Council, justices of the peace, and all other officers, civil and of the militia, before they enter upon the duties of their respective offices, shall take an oath or affirmation to support the Constitution of the United States, and for the faithful discharge of the duties of their office; the Governor, before the President of the United States, or before a judge of the supreme or district court of the United States, or before such other person as the President of the United States shall authorize to administer the same; the Secretary, Judges, and members of the Legislative Council, before the Governor; and all other officers before such persons as the Governor shall direct. The Governor shall receive an annual salary of five thousand dollars; the Secretary of two thousand dollars, and the judges of two thousand dollars each; to be paid quarter yearly out of the revenues of impost and tonnage, accruing within the said Territory. The members of the Legislative Council shall receive four dollars each per day during their attendance in Council.

SEC. 7. *And be it further enacted*, That the following acts, that is to say:

An act for the punishment of certain crimes against the United States.

An act in addition to an act for the punishment of certain crimes against the United States.

An act to prevent citizens of the United States from privateering against nations in amity with, or against citizens of the United States.

An act, for the punishment of certain crimes therein specified.

An act respecting fugitives from justice, and persons escaping from the service of their masters.

An act to prohibit the carrying on the slave trade from the United States to any foreign place or country.

An act to prevent the importation of certain persons into certain States, where, by the laws thereof, their admission is prohibited.

An act to establish the post office of the United States.

An act further to alter and establish certain post roads, and for the more secure carriage of the mail of the United States.

An act for the more general promulgation of the laws of the United States.

An act in addition to an act, entitled "An act for the more general promulgation of the laws of the United States."

An act to promote the progress of useful arts, and to repeal the act heretofore made for that purpose.

An act to extend the privilege of obtaining pat-

ents for useful discoveries and inventions to certain persons therein mentioned, and to enlarge and define the penalties for violating the rights of patentees.

An act for the encouragement of learning, by securing the copies of maps, charts, and books to the authors and proprietors of such copies, during the time therein mentioned.

An act, supplementary to an act, entitled an act for the encouragement of learning, by securing the copies of maps, charts, and books, to the authors and proprietors of such copies, during the times therein mentioned; and extending the benefits thereof to the arts of designing, engraving, and etching historical and other prints.

An act providing for salvage in cases of recapture.

An act respecting alien enemies.

An act to prescribe the mode in which the public acts, records, and judicial proceedings in each State shall be authenticated, so as to take effect in every other State.

An act for establishing trading houses with the Indian tribes.

An act for continuing in force a law, entitled an act for establishing trading houses with the Indian tribes. And

An act making provision relative to rations for Indians, and to their visits to the seat of Government:—shall extend to, and have full force and effect in the above-mentioned Territories.

SEC. 8. There shall be established in the said Territory a district court, to consist of one judge, who shall reside therein, and be called the district judge, and who shall hold, in the city of Orleans, four sessions annually; the first to commence on the third Monday in October next, and the three other sessions, progressively, on the third Monday of every third calendar month thereafter. He shall in all things have and exercise the same jurisdiction and powers, which are by law given to, or may be exercised by the judge of Kentucky district; and shall be allowed an annual compensation of two thousand dollars, to be paid quarter yearly out of the revenues of impost and tonnage accruing within the said Territory. He shall appoint a clerk for the said district, who shall reside, and keep the records of the court, in the city of Orleans, and shall receive for the services performed by him, the same fees to which the clerk of Kentucky district is entitled for similar services.

There shall be appointed in the said district, a person learned in the law, to act as attorney for the United States, who shall, in addition to his stated fees, be paid six hundred dollars, annually, as a full compensation for all extra services. There shall also be appointed a marshal for the said district, who shall perform the same duties, be subject to the same regulations and penalties, and be entitled to the same fees to which marshals in other districts are entitled for similar services; and shall moreover be paid two hundred dollars, annually, as a compensation for all extra services:

SEC. 9. All free male white persons, who are house-keepers, and who shall have resided one year, at least, in the said Territory, shall be quali-

fied to serve as grand or petit jurors, in the courts of the said Territory, and they shall, until the Legislature thereof shall otherwise direct, be selected in such manner as the judges of the said courts, respectively, shall prescribe, so as to be most conducive to an impartial trial, and to be least burdensome to the inhabitants of the said Territory.

SEC. 10. It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place without the limits of the United States, or cause or procure to be so imported or brought, or knowingly to aid or assist in importing or bringing any slave or slaves. And every person so offending, and being thereof convicted before any court within said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported or brought, the sum of three hundred dollars; one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and every slave so imported or brought, shall thereupon become entitled to and receive his or her freedom. It shall not be lawful for any person or persons to import or bring into the said Territory, from any port or place within the limits of the United States, or to cause or procure to be so imported or brought, or knowingly to aid or assist in so importing or bringing, any slave or slaves, which shall have been imported since the first day of May, one thousand seven hundred and ninety-eight, into any port or place within the limits of the United States, or which may hereafter be so imported from any port or place without the limits of the United States; and every person so offending and being thereof convicted before any court within said Territory, having competent jurisdiction, shall forfeit and pay for each and every slave so imported or brought from without the United States, the sum of three hundred dollars, one moiety for the use of the United States, and the other moiety for the use of the person or persons who shall sue for the same; and no slave or slaves shall directly or indirectly be introduced into said Territory, except by a citizen of the United States removing into said Territory for actual settlement, and being at the time of such removal bona fide owner of such slave or slaves; and every slave imported or brought into the said Territory, contrary to the provisions of this act, shall thereupon be entitled to, and receive his or her freedom.

SEC. 11. The laws in force in the said Territory at the commencement of this act, and not inconsistent with the provisions thereof, shall continue in force until altered, modified, or repealed by the Legislature.

SEC. 12. The residue of the province of Louisiana, ceded to the United States, shall be called the District of Louisiana, the Government whereof shall be organized and administered as follows: The Executive power now vested in the Governor of the Indiana Territory, shall extend to and be exercised in the said district of Louisiana. The Governor and Judges of the Indiana Territory shall have power to establish in the said district of Louisiana, inferior courts, and prescribe

their jurisdiction and duties, and to make all laws which they may deem conducive to the good government of the inhabitants thereof: *Provided however*, That no law shall be valid which is inconsistent with the Constitution and laws of the United States, or which shall lay any person under restraint or disability on account of his religious opinions, profession, or worship; in all of which he shall be free to maintain his own, and not burdened for those of another: *And provided, also*, That in all criminal prosecutions, the trial shall be by a jury of twelve good and lawful men of the vicinage, and in all civil cases of the value of one hundred dollars, the trial shall be by jury, if either of the parties require it. The Judges of the Indiana Territory, or any two of them, shall hold annually two courts within the said district, at such place as will be most convenient to the inhabitants thereof in general, shall possess the same jurisdiction they now possess in the Indiana Territory, and shall continue in session until all the business depending before them shall be disposed of. It shall be the duty of the Secretary of the Indiana Territory to record and preserve all the papers and proceedings of the Governor, of an executive nature, relative to the district of Louisiana, and transmit authentic copies thereof every six months to the President of the United States. The Governor shall publish throughout the said district, all the laws which may be made as aforesaid, and shall, from time to time, report the same to the President of the United States, to be laid before Congress, which, if disapproved of by Congress, shall thenceforth cease, and be of no effect.

The said district of Louisiana shall be divided into districts by the Governor, under the direction of the President, as the convenience of the settlements shall require, subject to such alterations hereafter as experience may prove more convenient. The inhabitants of each district, between the ages of eighteen and forty-five shall be formed into a militia, with proper officers, according to their numbers, to be appointed by the Governor, except the commanding officer, who shall be appointed by the President, and who, whether a captain, a major, or a colonel, shall be the commanding officer of the district, and as such, shall, under the Governor, have command of the regular officers and troops in his district, as well as of the militia, for which he shall have a brevet commission, giving him such command, and the pay and emoluments of an officer of the same grade in the regular army; he shall be specially charged with the employment of the military and militia of his district, in cases of sudden invasion or insurrection, and until the orders of the Governor can be received, and at all times with the duty of ordering a military patrol, aided by militia, if necessary, to arrest unauthorized settlers in any part of his district, and to commit such offenders to jail, to be dealt with according to law.

SEC. 13. The laws in force in the said district of Louisiana, at the commencement of this act, and not inconsistent with any of the provisions thereof, shall continue in force until altered, mod-

ified, or repealed by the Governor and judges of the Indiana Territory, as aforesaid.

SEC. 14. *And be it further enacted*, That all grants for lands within the territories ceded by the French Republic to the United States, by the Treaty of the thirtieth of April, in the year one thousand eight hundred and three, the title whereof was, at the date of the Treaty of St. Ildefonso, in the Crown, Government, or nation of Spain, and every act and proceeding subsequent thereto, of whatsoever nature, towards the obtaining any grant, title, or claim to such lands, and under whatsoever authority transacted, or pretended, be, and the same are hereby declared to be, and to have been from the beginning, null, void, and of no effect in law or equity: *Provided, nevertheless*, That anything in this section contained shall not be construed to make null and void any *bona fide* grant, made agreeably to the laws, usages, and customs of the Spanish Government, to an actual settler on the lands so granted, for himself, and for his wife and family; or to make null and void any *bona fide* act or proceeding done by an actual settler, agreeably to the laws, usages, and customs of the Spanish Government, to obtain a grant for lands actually settled on by the person or persons claiming title thereto, if such settlement in either case was actually made prior to the twentieth day of December, one thousand eight hundred and three: *And provided further*, That such grant shall not secure to the grantee or his assigns more than one mile square of land, together with such other and further quantity as heretofore has been allowed for the wife and family of such actual settler, agreeably to the laws, usages, and customs of the Spanish Government. And that if any citizen of the United States, or other person, shall make a settlement on any lands belonging to the United States, within the limits of Louisiana, or shall survey, or attempt to survey, such lands, or to designate boundaries by marking trees, or otherwise, such offender shall, on conviction thereof, in any court of record of the United States, or the Territories of the United States, forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding twelve months; and it shall, moreover, be lawful for the President of the United States to employ such military force as he may judge necessary to remove from lands belonging to the United States any such citizen or other person, who shall attempt a settlement thereon.

SEC. 15. The President of the United States is hereby authorized to stipulate with the Indian tribes owning lands on the east side of the Mississippi, and residing thereon, for an exchange of lands, the property of the United States, on the west side of the Mississippi, in case the said tribes shall remove and settle thereon; but in such stipulation, the said tribes shall acknowledge themselves to be under the protection of the United States, and shall agree that they will not hold any treaty with any foreign Power, individual State, or with the individuals of any State or Power; and that they will not sell or dispose of the said lands, or any part thereof, to any sovereign Power,

except to the United States, nor to the subjects or citizens of any other sovereign Power, nor to the citizens of the United States. And, in order to maintain peace and tranquillity with the Indian tribes who reside within the limits of Louisiana, as ceded by France to the United States, the act of Congress, passed on the thirtieth of March, one thousand eight hundred and two, entitled "An act to regulate trade and intercourse with the Indian tribes, and to preserve peace on the frontiers," is hereby extended to the territories erected and established by this act; and the sum of fifteen thousand dollars of any money in the Treasury not otherwise appropriated by law is hereby appropriated to enable the President of the United States to effect the object expressed in this section.

SEC. 16. The act, passed on the thirty-first day of October, one thousand eight hundred and three, entitled "An act to enable the President of the United States to take possession of the territories ceded by France to the United States, by the treaty concluded at Paris, on the thirtieth day of April last, and for the temporary government thereof," shall continue in force until the first day of October next, anything therein to the contrary notwithstanding; on which said first day of October, this act shall commence, and have full force, and shall continue in force for and during the term of one year, and to the end of the next session of Congress which may happen thereafter.

Approved, March 26, 1804.

An Act in addition to "An act for fixing the Military Peace Establishment of the United States."

*Be it enacted, &c.*, That there shall be appointed, in addition to the surgeon's mates provided for by the "Act fixing the Military Peace Establishment of the United States," as many surgeon's mates, not exceeding six, as the President of the United States may judge necessary, to be attached to garrisons or posts, agreeably to the provision of the said act.

SEC. 2. *And be it further enacted*, That an equivalent in malt liquor or low wines, may be supplied the troops of the United States, instead of the rum, whiskey, or brandy, which by the said act is made a component part of a ration, at such posts and garrisons, and at such seasons of the year, as, in the opinion of the President of the United States, may be necessary for the preservation of their health.

Approved, March 26, 1804.

An Act in addition to the act, entitled "An act for the punishment of certain crimes against the United States."

*Be it enacted, &c.*, That any person, not being an owner, who shall, on the high seas, wilfully and corruptly cast away, burn, or otherwise destroy any ship or other vessel unto which he belongeth, being the property of any citizen or citizens of the United States, or procure the same to be done, and being thereby lawfully convicted, shall suffer death.

SEC. 2. *Be it further enacted*, That if any person shall, on the high seas, wilfully and corruptly cast away, burn, or otherwise destroy any ship or vessel of which he is owner, in part or in whole, or in any wise direct or procure the same to be done, with intent or design to prejudice any person or persons that hath underwritten, or shall underwrite any policy or policies of insurance thereon, or of any merchant or merchants that shall load goods thereon, or of any other owner or owners of such ship or vessel, the person or persons offending therein, being thereof lawfully convicted, shall be deemed and adjudged guilty of felony, and shall suffer death.

SEC. 3. *And, be it further enacted*, That any person or persons guilty of any crime arising under the revenue law of the United States, or incurring any fine or forfeiture by breaches of the said laws, may be prosecuted, tried, and punished, provided the indictment or information be found at any time within five years after committing the offence or incurring the fine or forfeiture, any law or provision to the contrary notwithstanding.

Approved, March 26, 1804.

An Act to make further appropriations for the purpose of extinguishing the Indian claims.

*Be it enacted, &c.*, That a sum not exceeding fifteen thousand dollars, be appropriated to defray the expenses of such treaty or treaties as the President of the United States shall deem it expedient to hold with the Indians, south of the river Ohio, for the purpose of extinguishing Indian claims to any lands lying within the limits of the United States; and that the compensation to be allowed to any of the commissioners who may be appointed for negotiating such treaty or treaties shall not exceed, exclusive of travelling expenses, the rate of six dollars per day, during the time of actual service of such commissioner.

SEC. 2. *And be it further enacted*, That the sum aforesaid shall be paid out of any moneys in the Treasury of the United States, not otherwise appropriated:

Approved, March 26, 1804.

An act to authorize the adjournment of District Courts by Marshals, in certain cases.

*Be it enacted, &c.*, That in case of the inability of the judge of any district court to attend on the day appointed for holding a special or an adjourned district court, such court may, by virtue of a written order from the judge thereof, directed to the marshal of the district, be adjourned by the marshal to the next stated term of said court, or to such day, prior thereto, as in the said order shall be appointed.

Approved, March 26, 1804.

An Act further to protect the commerce and seamen of the United States against the Barbary Powers.

*Be it enacted, &c.*, That for the purpose of defraying the expenses of equipping, officering, manning, and employing such of the armed vessels of the United States as may be deemed re-

quisite by the President of the United States, for protecting the commerce and seamen thereof, and for carrying on warlike operations against the Regency of Tripoli, or any other of the Barbary Powers, which may commit hostilities against the United States, and for the purpose also of defraying any other expenses incidental to the intercourse with the Barbary Powers, or which are authorized by this act, a duty of two and an half per centum ad valorem, in addition to the duties now imposed by law, shall be laid, levied, and collected upon all goods, wares, and merchandise, paying a duty ad valorem, which shall, after the thirtieth day of June next, be imported into the United States from any foreign port or place: and an addition of ten per centum shall be made to the said additional duty in respect to all goods, wares, and merchandise imported in ships or vessels not of the United States: and the duties imposed by this act shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, as are already prescribed by law in relation to the duties now in force on the articles which on the said additional duty is laid by this act.

SEC. 2. *And be it further enacted*, That a distinct account shall be kept of the duties imposed by this act, and the proceeds thereof shall constitute a fund, to be denominated "The Mediterranean Fund," and shall be applied solely to the purposes designated by this act: and the said additional duty shall cease and be discontinued at the expiration of three months after the ratification, by the President of the United States, of a treaty of peace with the Regency of Tripoli; unless the United States should then be at war with any other of the Barbary Powers, in which case the said additional duty shall cease and be discontinued at the expiration of three months after the ratification by the President of the United States of a treaty of peace with such Power: *Provided however*, That the said additional duty shall be collected on all such goods, wares, and merchandise, liable to pay the same, as shall have been imported previous to the day on which the said duty is to cease.

SEC. 3. *And be it further enacted*, That the President of the United States, if he shall deem it necessary, shall be, and he is hereby authorized to cause to be purchased or built, officered, manned, and equipped, two vessels of war, to carry not more than sixteen guns each, and likewise to hire or accept on loan in the Mediterranean sea, as many gun-boats as he may think proper.

SEC. 4. *And be it further enacted*, That a sum not exceeding one million of dollars, to be paid out of any money in the Treasury not otherwise appropriated, shall be, and the same is hereby appropriated, (in addition to the sum heretofore appropriated for the same objects,) for the purpose of defraying any of the expenses authorized by this act, which may be incurred during the present year: or, if necessary, the President of the United States is hereby authorized to borrow the said sum, or such part thereof as he may think



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proper, at a rate of interest not exceeding six per centum per annum, from the Bank of the United States, which is hereby empowered to lend the same, or from any other body or bodies politic or corporate, or from any person or persons; and so much of the proceeds of the duties laid by this act, as may be necessary, shall be and is hereby pledged for replacing in the Treasury the said sum of one million of dollars, or so much thereof as shall have been thus expended, and for paying the principal and interest of the said sum, or so much thereof as may be borrowed, pursuant to the authority given in this section: and an account of the several expenditures made under this act shall be laid before Congress during their next session.

Approved, March 26, 1804.

An Act in addition to an act, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

*Be it enacted, &c.,* That any alien, being a free white person, who was residing within the limits and under the jurisdiction of the United States, at any time between the eighteenth day of June, one thousand seven hundred and ninety-eight, and the fourteenth day of April, one thousand eight hundred and two, and who has continued to reside within the same, may be admitted to become a citizen of the United States, without a compliance with the first condition specified in the first section of the act, entitled "An act to establish an uniform rule of naturalization, and to repeal the acts heretofore passed on that subject."

SEC. 2. *And be it further enacted,* That when any alien who shall have complied with the first condition specified in the first section of the said original act, and who shall have pursued the directions prescribed in the second section of the said act, may die, before he is actually naturalized, the widow and the children of such alien shall be considered as citizens of the United States; and shall be entitled to all rights and privileges as such, upon taking the oaths prescribed by law.

Approved, March 26, 1804.

An Act in relation to the Navy Pension Fund.

*Be it enacted, &c.,* That all the money accruing, or which has already accrued, to the United States, from the capture of prizes authorized by law, and which has not already been paid to the Secretary of the Navy, the Secretary of the Treasury, and the Secretary of War, as commissioners of the navy pension fund, shall be paid to the Treasurer of the United States.

SEC. 2. *And be it further enacted,* That it shall be the duty of the Treasurer of the United States to receive all the money so accruing, and to disburse the same, pursuant to warrants from the Secretary of the Navy, countersigned by the Accountant of the Navy; and a distinct quarterly account of the moneys thus received and disbursed shall be rendered by the said Treasurer to the accounting officers of the Treasury, in the same

manner as is provided for other public moneys received by him.

SEC. 3. *And be it further enacted,* That it shall be the duty of the Accountant of the Navy to receive and settle all accounts whatever, in relation to the navy pension fund, and report from time to time all such settlements as shall have been made by him, for the inspection and revision of the accounting officers of the Treasury, in the same manner as in other cases of public accounts.

SEC. 4. *And be it further enacted,* That the Comptroller of the Treasury shall be fully authorized and empowered to direct suits for the recovery of any sums now due, or which may hereafter be due, to the United States, for prizes as aforesaid, and to prosecute the same in the name of the United States, in the same manner as in other cases for the recovery of moneys due to the United States.

SEC. 5. *And be it further enacted,* That the commissioners of the navy pension fund be, and they are hereby, authorized to appoint a secretary, who shall perform all such duties in relation to the fund as they shall require of him, and shall receive for his services a salary not exceeding two hundred and fifty dollars per annum, to be paid quarter yearly at the Treasury of the United States, and charged to the same fund.

SEC. 6. *And be it further enacted,* That the commissioners of the navy pension fund be, and they are hereby, authorized and directed to make such regulations as may to them appear expedient for the admission of persons on the roll of navy pensioners, and for the payment of the pensions.

Approved, March 26, 1804.

An Act to erect a light-house at the mouth of the Mississippi River, and also a light-house at or near the pitch of Cape Lookout, in the State of North Carolina, and a beacon at the north point of Sandy Hook.

*Be it enacted, &c.,* That, under the direction of the President of the United States, it shall be the duty of the Secretary of the Treasury to provide by contract, to be approved by the President, for building a light-house at the mouth of the river Mississippi, on such site as the President of the United States may deem most proper for the convenience and accommodation thereof.

SEC. 2. *And be it further enacted,* That as soon as land sufficient shall be obtained at a reasonable price for the purpose, and the jurisdiction of the land so to be obtained shall have been ceded to the United States by the State of North Carolina, it shall be the duty of the Secretary of the Treasury to provide by contract for building a light-house on or near the pitch of Cape Lookout, in the said State of North Carolina, which contract shall be approved by the President of the United States; and it shall be the duty of the said Secretary to furnish the said light-houses on Cape Lookout and the mouth of the Mississippi with all necessary supplies, and also to agree for the salaries or wages of the person or persons who may be appointed by the President for the superintendence and care of the same;—and the President is hereby authorized to make such appointments.

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SEC. 3. *And be it further enacted*, That the sum of twenty-five thousand dollars be, and is hereby, appropriated for the purpose of defraying the charges and expenses which shall accrue in consequence of the two first sections of this act, to be paid out of any moneys in the Treasury not otherwise appropriated.

SEC. 4. *And be it further enacted*, That it shall be the duty of the Secretary of the Treasury, as soon as the fee of the soil shall have vested in the United States, to cause a beacon to be erected on the north point of Sandy Hook, and the sum of two thousand dollars, out of any unappropriated moneys, is hereby appropriated for that purpose.

Approved, March 26, 1804.

An Act to repeal a part of the act, entitled "An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen."

*Be it enacted, &c.*, That the ninth section of the act, entitled "An act supplementary to the act concerning Consuls and Vice Consuls, and for the further protection of American seamen," passed the twenty-eighth of February, one thousand eight hundred and three, be, and the same is hereby, repealed.

SEC. 2. *And be it further enacted*, That all powers of attorney for the transfer of any stock of the United States, or for the receipt of interest thereon, executed in a foreign country, since the thirtieth day of June, one thousand eight hundred and three, according to the forms in use at the Treasury of the United States prior to the said thirtieth day of June, one thousand eight hundred and three, shall be valid to all intents and purposes; any provision in the aforesaid section hereby repealed, to the contrary notwithstanding.

Approved March 27, 1804.

An Act supplementary to the act, entitled "An act relative to the election of a President and Vice President of the United States, and declaring the officer who shall act as President in case of vacancies in the offices both of President and Vice President."

*Be it enacted, &c.*, That whenever the amendment proposed during the present session of Congress, to the Constitution of the United States, respecting the manner of voting for President and Vice President of the United States, shall have been ratified by the Legislatures of three fourths of the several States, the Secretary of State shall forthwith cause a notification thereof to be made to the Executive of every State, and shall also cause the same to be published in at least one of the newspapers printed in each State, in which the laws of the United States are annually published. The Executive authority of each State shall cause a transcript of the said notification to be delivered to the electors appointed for that purpose, who shall first thereafter meet in such State, for the election of a President and Vice President of the United States; and whenever the said electors shall have received the said transcript of notification, or whenever they

shall meet more than five days subsequent to the publication of the ratification of the above-mentioned amendment, in one of the newspapers of the State, by the Secretary of State, they shall vote for President and Vice President of the United States, respectively, in the manner directed by the above-mentioned amendment; and having made and signed three certificates of all the votes given by them, each of which certificates shall contain two distinct lists, one, of the votes given for President, and the other, of the votes given for Vice President, they shall seal up the said certificates, certifying on each that lists of all the votes of such State given for President, and of all the votes given for Vice President, are contained therein, and shall cause the said certificates to be transmitted and disposed of, and in every other respect act in conformity with the provisions of the act to which this is a supplement. And every other provision of the act to which this is a supplement, and which is not virtually repealed by this act, shall extend and apply to every election of a President and Vice President of the United States, made in conformity to the above-mentioned amendment to the Constitution of the United States.

*And whereas*, The above-mentioned amendment may be ratified by the Legislatures of three-fourths of the States, and thereupon become immediately valid, to all intents and purposes, as part of the Constitution, on a day so near the day fixed by law for the meeting of the electors in the several States, that the electors shall not in every State be apprized of the said ratification, and may vote in a manner no longer conformable with the Constitution, as amended, whereby several States might be deprived of their vote in the election of a President and Vice President: for remedy whereof;

SEC. 2. *Be it further enacted*, That the electors who shall be appointed in each State for the election of a President and Vice President of the United States, shall, at every such election, unless they shall have received a transcript of the notification of the ratification of the above-mentioned amendment to the Constitution, or unless they shall meet more than five days subsequent to the publication of the said ratification by the Secretary of State, in one of the newspapers of the State, vote for President and Vice President of the United States, in the following manner, that is to say: they shall vote for two persons as President and Vice President, in conformity with the first section of the second article of the Constitution. And in other respects act in conformity with the provisions of the act to which this act is a supplement; and they shall likewise vote for one person as President, and for one person as Vice President, in conformity with the above-mentioned amendment of the Constitution; and in other respects act in conformity with the provisions of the first section of this act. But those certificates only, of votes given for President and Vice President of the United States, shall be opened by the President of the Senate, for the purpose of being counted, which shall contain the

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list or lists of votes given in conformity with the Constitution, as in force on the day fixed by law for the meeting of the electors, by whom the said votes shall have been given.

Sec. 3. *And be it further enacted*, That whenever, by the provisions of the second section of this act, it shall be the duty of the electors for any State to vote, in conformity both with the Constitution and the proposed amendment thereto, the Executive authority of such State shall cause six lists of the names of the electors for the State, to be delivered to the said electors, on or before the day fixed by law for them to meet and vote for President and Vice President; and the said electors shall enclose one of the said lists in each of the certificates by them made and sealed, in conformity with the provisions of this act, and of the act to which this is a supplement.

Approved, March 27, 1804.

An Act to amend an act, entitled "An act concerning the registering and recording of Ships and Vessels."

*Be it enacted, &c.*, That no ship or vessel shall be entitled to be registered as a ship or vessel of the United States, or, if registered, to the benefits thereof, if owned in whole or in part by any person naturalized in the United States, and residing for more than one year in the country from which he originated, or for more than two years in any foreign country, unless such person be in the capacity of a Consul or other public agent of the United States: *Provided*, That nothing herein contained shall be construed to prevent the registering anew of any ship or vessel before registered, in case of a *bona fide* sale thereof to any citizen or citizens resident in the United States: *And provided, also*, That satisfactory proof of the citizenship of the person on whose account a vessel may be purchased, shall be first exhibited to the collector, before a new register shall be granted for such vessel.

Sec. 2. *And be it further enacted*, That the proviso in the act, entitled "An act in addition to an act, entitled 'An act concerning the registering and recording of ships and vessels,'" passed the twenty-seventh of June, one thousand seven hundred and ninety-seven, shall be taken and deemed to extend to the executors or administrators of the owner or owners of vessels, in the said proviso described.

Approved, March 27, 1804.

An Act supplementary to the act, entitled "An act providing for a Naval Peace Establishment, and for other purposes."

*Be it enacted, &c.*, That the President of the United States be, and he is hereby, authorized to attach to the navy-yard at Washington, and to the frigates and other vessels laid up in ordinary in the Eastern Branch, a captain of the navy, who shall have the general care and superintendence of the same; and shall perform the duties of agent to the Navy Department, and shall be entitled to receive for his services, the pay and emoluments of a captain commanding a squadron on separate

service. And the President of the United States is hereby further authorized to attach permanently to the said navy-yard and vessels, one other commissioned officer of the navy, who shall receive for his services the pay and emoluments of a captain commanding a twenty-gun ship, one surgeon and one surgeon's mate of the navy, who shall be severally allowed for their services the same pay, rations, and emoluments, as are allowed to a surgeon and to a surgeon's mate, in the army of the United States; one sailing-master, one head carpenter, one plumber, one head block-maker, one head cooper, two boatswains, two gunners, one sailmaker, one storekeeper, one purser, one clerk of the yard; and also such seamen and marines as in the opinion of the President shall be deemed necessary: *Provided*, That the number of seamen or marines shall not at any time be greater than what is at present authorized by the act to which this is a supplement.

Sec. 2. *And be it further enacted*, That that part of the act to which this is a supplement, which attaches to each frigate laid up in ordinary, one sailing master, one boatswain, one gunner, one carpenter, and one cook, one sergeant or corporal of marines, and eight marines, and to the large frigates twelve, and to the small frigates ten seamen, and which declares that the sailing master shall have the care of the ship, and shall execute such duties of a purser as may be necessary, shall be, and hereby is, repealed.

Approved, March 27, 1804.

An Act supplementary to the act, entitled "An act concerning the City of Washington."

*Be it enacted, &c.*, That the several compensations and allowances established by the act entitled "An act concerning the City of Washington," shall be compensated from the first day of June, one thousand eight hundred and two, being the time when the services, so compensated and allowed, commenced under the authority of the President of the United States.

Sec. 2. *And be it further enacted*, That the surveyor of the said city shall receive as a compensation for his services an allowance of three dollars per day.

Sec. 3. *And be it further enacted*, That the superintendent of the City of Washington be, and he hereby is, authorized to pay the said compensations and allowances, from the said first of June, one thousand eight hundred and two, in conformity with the provision of the said recited act, until Congress shall otherwise direct; and also to pay and discharge all expenses of an incidental nature, which have been or may be incurred in the discharge of the functions of his office and the office of surveyor, which shall be approved by the President of the United States.

Sec. 4. *And be it further enacted*, That the said superintendent be, and he hereby is authorized and directed to settle and pay the claim of Peter Charles L'Enfant, for his services whilst employed by the late Board of Commissioners, in the manner, and on the terms, heretofore proposed by the said Commissioners.

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SEC. 5. *And be it further enacted*, That the several expenses authorized by this act shall be paid and discharged out of any funds of the City of Washington, in possession of the superintendent, which are not otherwise appropriated.

Approved, March 27, 1804.

An Act concerning the public buildings at the City of Washington.

*Be it enacted, &c.*, That fifty thousand dollars shall be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated, to be applied under the direction of the President of the United States, in proceeding with the public buildings at the City of Washington, and in making such necessary improvements and repairs thereon, as he shall deem expedient.

Approved, March 27, 1804.

An Act supplementary to the act, entitled, "An act to prescribe the mode in which the public acts, records and judicial proceedings in each State shall be authenticated, so as to take effect in every other State."

*Be it enacted, &c.*, That from and after the passage of this act, all records and exemplifications of office books, which are or may be kept in any public office of any State, not appertaining to a court, shall be approved or admitted in any other court or office in any other State, by the attestation of the keeper of the said records or books, and the seal of his office thereto annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county or district, as the case may be, in which such office is or may be kept; or of the Governor, the Secretary of State, the Chancellor, or the Keeper of the Great Seal of the State, that the said attestation is in due form and by the proper officer; and the said certificate, if given by the presiding justice of a court, shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or if the said certificate be given by the Governor, the Secretary of State, the Chancellor or Keeper of the Great Seal, it shall be under the great seal of the State in which the said certificate is made. And the said records and exemplifications, authenticated as aforesaid, shall have such faith and credit given to them in every court and office within the United States, as they have by law or usage in the courts or offices of the State from whence the same are or shall be taken.

SEC. 2. *And be it further enacted*, That all the provisions of this act, and the act to which this is a supplement, shall apply as well to the public acts, records, office books, judicial proceedings, courts, and offices, of the respective Territories of the United States, and countries subject to the jurisdiction of the United States, as to the public acts, records, office books, judicial proceedings, courts, and offices, of the several States.

Approved, March 27, 1804.

An Act for imposing more specific duties on the importation of certain articles; and also, for levying and collecting light money on foreign ships or vessels, and for other purposes.

*Be it enacted, &c.*, That, from and after the thirtieth day of June next, the following articles, in addition to those already exempted from duty, shall and may be imported free from any duty; namely, rags of linen, of cotton, of woollen, and of hempen cloth; bristles of swine, regulus of antimony, unwrought clay, unwrought burr stones, and the bark of the cork tree.

SEC. 2. *And be it further enacted*, That, from and after the thirtieth day of June next, the duties now in force upon the articles hereinafter enumerated and described, at their importation into the United States, shall cease; and that, in lieu thereof, there shall be thenceforth laid, levied and collected upon the said articles, at their said importation, the several and respective rates or duties following, that is to say:

On foreign-caught dried fish, fifty cents per quintal.

On foreign caught pickled fish, as follows, to wit:

On salmon, one hundred cents per barrel; on mackerel, sixty cents per barrel; on all other pickled fish, forty cents per barrel.

On cables, tarred cordage, white lead, red lead, almonds, currants, prunes and plums, figs, raisins imported in jars and boxes, and muscadell raisins, two cents per pound.

On all other kinds of raisins, one cent and a half per pound.

On tallow, yellow ochre in oil, anchors, and sheet iron, one cent and a half per pound.

On Spanish brown, dry yellow ochre, slit and hoop iron, one cent per pound.

On starch, three cents per pound.

On hair powder, glue, and seines, four cents per pound.

On pewter plates and dishes, four cents per pound.

On untarred cordage, two cents and a half per pound.

On quicksilver, six cents per pound.

On Chinese cassia and gunpowder, four cents per pound.

On cinnamon and cloves, twenty cents per pound.

On mace, one dollar and twenty-five cents per pound.

On nutmegs, fifty cents per pound.

On black glass quart bottles, sixty cents per gross.

On window glass, as follows: On all not above eight inches by ten, one dollar and sixty cents per hundred square feet; not above ten inches by twelve, one dollar and seventy-five cents per hundred square feet; and on all above ten inches by twelve, two dollars and twenty-five cents per hundred square feet.

On cigars, two dollars per thousand.

On kid and Morocco shoes, fifteen cents a pair.

On foreign lime, fifty cents per cask containing sixty gallons; and on Sicily wine, thirty cents per gallon.

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SEC. 3. *And be it further enacted*, That an addition of ten per centum shall be made to the several rates of duties above specified and imposed in respect to all such goods, wares, and merchandise as aforesaid, as shall, after the said thirtieth day of June, be imported in ships or vessels not of the United States.

SEC. 4. *And be it further enacted*, That the duties laid by this act, shall be levied and collected in the same manner, and under the same regulations and allowances as to drawbacks, mode of security, and time of payment, respectively, as the several duties now in force on the respective articles herein before enumerated: *Provided, however*, That no drawbacks shall be allowed on the exportation of foreign fish, or fish oil, or of playing cards.

SEC. 5. *And be it further enacted*, That all duties and drawbacks which, by virtue of this act, shall be payable and allowable on any specific quantity of goods, wares, and merchandise, shall be deemed to apply, in proportion, to any quantity greater or less than such specific quantity.

SEC. 6. *And be it further enacted*, That a duty of fifty cents per ton, to be denominated "light-money," shall be levied and collected on all ships or vessels not of the United States, which, after the aforesaid thirtieth day of June next, may enter the ports of the United States: *Provided, however*, That nothing in this act shall be so construed as to contravene any provision of the treaty or conventions concluded between the United States of America and the French Republic, on the thirtieth day of April, one thousand eight hundred and three: *And provided, also*, That the said light-money shall be levied and collected in the same manner, and under the same regulations, as the tonnage duties now imposed by law.

SEC. 7. *And be it further enacted*, That the person exercising the powers which, under the Spanish Government, were vested in the Intendant of the province of Louisiana, shall, until a district court of the United States shall be established in the Territory of Orleans, in conformity with the provisions of the act, entitled "An act erecting Louisiana into two Territories, and providing for the temporary government thereof," have and exercise, in all cases whatever arising within the said Territory, under the laws regulating and providing for the collection of duties on imports and tonnage, or under any other revenue laws of the United States, the same jurisdiction and powers which, by law, are given to the district and circuit courts of the United States. And the powers to remit fines, penalties, or forfeitures, and to remove disabilities, which, by law, are vested in the Secretary of the Treasury, may and shall, in all cases of such fines, penalties, forfeitures, or disabilities, incurred within the Territory of Orleans, and until a Governor of the said Territory shall be appointed, and shall enter into the functions of his office, be exercised by the person exercising the powers, which, under the Spanish Government, were vested in the Governor of the province of Louisiana; and the said powers to remit fines, penalties, or forfeitures, and to remove disabilities, may and shall, in like manner, be exercised by the Gover-

nor of the said Territory, from the time when he shall enter into the functions of his office, in conformity with the provisions of the said act, until the end of the next session of Congress, and no longer.

Approved, March 27, 1804.

An Act relative to the compensations of certain officers of the customs, and to provide for appointing a Surveyor in the district therein mentioned.

*Be it enacted, &c.*, That, from and after the last day of June, in the present year, the salaries heretofore allowed, by law, to the several collectors of the customs for the districts of Bath, Portsmouth, Newport, Middletown, New Haven, Delaware, Richmond, Wilmington, in North Carolina, Newbern and Edenton, shall cease and be discontinued. And there shall be allowed and paid, annually, to the officers of the customs hereafter named, the following sums, respectively, viz:

To the collector for the district of Natchez, in addition to the fees and other emoluments of office, the sum of two hundred and fifty dollars; and to each of the surveyors at New London, Middletown, New Haven, and Alexandria, in addition to the allowances already established by law, the sum of fifty dollars.

SEC. 2. *And be it further enacted*, That, from and after the said last day of June, in lieu of the commissions heretofore allowed by law, there shall be allowed to the collector of the customs for Wilmington, in North Carolina, and Newbern, two and a half per cent.

To the collectors for Petersburg and Richmond, two per cent.

To the collectors for Kennebunk and New London, one and three-quarters per cent.

To the collector for Bath, one and a half per cent.

To the collectors for New Haven and Middletown, one and three-eighths per cent.

To the collectors for Providence and Alexandria, one and one-quarter per cent.

To the collector for Newport, one and one-eighth per cent.

To the collector for Portland, three-quarters of one per cent.

And to the collectors for Salem and Beverly, five-eighths of one per cent., on all moneys by them respectively received on account of the duties arising on goods, wares, and merchandise, imported into the United States, and on the tonnage of ships and vessels.

SEC. 3. *And be it further enacted*, That there shall be appointed a surveyor for the district of Marblehead, to reside at Marblehead, who shall be entitled to receive, in addition to the other emoluments allowed by law, a salary of one hundred dollars annually.

Approved, March 27, 1804.

An Act for the appointment of an additional Judge for the Mississippi Territory, and for other purposes.

*Be it enacted, &c.*, That there shall be appointed an additional judge for the Mississippi Terri-

tory, who shall reside at or near the Tombigbee settlement, and who shall possess and exercise, within the district of Washington, as fixed and ascertained by an act of the General Assembly of the Mississippi Territory, entitled "An act for the more convenient organization of the courts of said Territory," the jurisdiction heretofore possessed and exercised by the superior court of the said Territory within the said district of Washington, and to the exclusion of the original jurisdiction of the said superior court within the same: *Provided, always*, That the said superior court shall have full power and authority to issue writs of error to the court established by this act, and to hear and determine the same, when sitting, for the district of Adams, as fixed and ascertained by the act of the General Assembly of the Mississippi Territory, herein before mentioned.

SEC. 2. *Be it further enacted*, That the said superior court are hereby authorized, upon the reversal of a judgment of the court established by this act, to render such judgment as the said court ought to have rendered or passed, except where the reversal is in favor of the plaintiff in the original suit, and the debt or damages to be assessed are uncertain, in which case the cause shall be remanded in order to a final determination.

SEC. 3. *Be it further enacted*, That when any person, not being an executor or administrator, applies for a writ of error, such writ of error shall be no stay of proceedings in the court to which it issues, unless the plaintiff in error shall give security, to be approved of by a judge of the said superior court, that the plaintiff in error shall prosecute his writ to effect, and pay the condemnation money and all costs, or otherwise abide the judgment in error, if he fail to make his plea good.

SEC. 4. *Be it further enacted*, That all pleas, process, and proceedings whatever, which may have been commenced in the said superior court, within the aforesaid district of Washington, shall be, and the same are hereby, transferred to the court established by this act, and the officers appointed to issue or execute the process of the said superior court within the district of Washington, and to record the proceedings of the same, are, hereby, authorized and required to issue and execute the process of the court established by this act, and to record the proceedings thereof.

SEC. 5. *Be it further enacted*, That the court established by this act shall hold two terms in each and every year, at the place where the courts for Washington county, within the said Territory, shall be held, to commence on the day following, to wit: on the first Monday in May and September, annually, and shall then and there proceed to hear and determine the pleas, process, and proceedings depending before them, in the same manner as the said superior court, within the district of Washington aforesaid, might or could have done, in case this act had not been passed.

SEC. 6. *And be it further enacted*, That the judge to be appointed by virtue of this act shall receive the same salary, and payable in the same manner, which is established by law for judges

of the said superior court of the Mississippi Territory.

Approved, March 27, 1804.

An Act to provide for a more extensive distribution of the Laws of the United States.

*Be it enacted, &c.*, That the Secretary for the Department of State be, and he hereby is, authorized and empowered to procure four hundred copies of the laws of the United States: one hundred copies of which shall be distributed in just proportions in the Territory of Orleans and district of Louisiana, the other three hundred copies to be reserved for the disposal of Congress.

SEC. 2. *And be it further enacted*, That one thousand copies of the laws of the United States which shall be printed at the close of each session, shall be reserved for the disposal of Congress, and that the distribution of the remainder shall be extended to the Territory of Orleans and district of Louisiana, and to such other Territories as are or may hereafter be established, in the same manner and proportion as is already provided by law for distributing them among the several States and Territories; and the Secretary of State shall cause to be published in one newspaper in each of the Territories of the United States where newspapers are printed, the laws which have passed during the present session, and which may hereafter be passed by Congress.

SEC. 3. *And be it further enacted*, That there shall be transmitted, by the Secretary of State, to each member of the Senate and House of Representatives, and to each Territorial Delegate, as soon as may be after the expiration of each session of Congress, a copy of all the laws which shall have been passed at such session.

SEC. 4. *And be it further enacted*, That the sum of two thousand dollars be, and the same hereby is, appropriated for defraying the expense authorized by this act, payable out of any money in the Treasury not otherwise appropriated.

Approved, March 27, 1804.

An Act supplementary to the act, entitled "An act regulating the grants of land, and providing for the disposal of the lands of the United States south of the State of Tennessee."

*Be it enacted, &c.*, That persons claiming lands in the Mississippi Territory, by virtue of any British or Spanish grant, or by virtue of the three first sections of the act to which this is a supplement, or of the articles of agreement and cession with the State of Georgia, may, after the last day of March, in the year one thousand eight hundred and four, and until the last day of November, then next following, give notice in writing, of their claims, to the register of the land office, for the lands lying west of Pearl river, and have the same recorded, in the manner prescribed by the fifth section of the act to which this is a supplement: *Provided, however*, That where lands are claimed by virtue of a complete Spanish or British grant, in conformity with the articles of agreement and cession between the United States

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and the State of Georgia, it shall not be necessary for the claimant to have any other evidence of his claim recorded except the original grant or patent, together with the warrant or order of survey, and the plot; but all the subsequent conveyances of deeds shall be deposited with the Register, to be by him laid before the Commissioners when they shall take the claim into consideration: and the powers vested by law in the Commissioners appointed for the purpose of ascertaining the claims to lands lying west of Pearl river, shall, in every respect, extend and apply to claims which may be made by virtue of this section; and the same proceedings shall thereupon be had, as are prescribed by the act aforesaid in relation to claims which shall have been exhibited on or before the last day of March, in the year one thousand eight hundred and four.

SEC. 2. *And be it further enacted*, That the Commissioners aforesaid, appointed to adjust the claims to lands lying west of Pearl river, shall have power to adjourn from time to time, and for such time as they may think fit: *Provided, however*, That they shall meet on the first day of December, in the year one thousand eight hundred and four, and shall not afterwards adjourn for a longer time than three days, nor until they shall have completed the business for which they were appointed: *And provided, also*, That nothing contained in this act, nor in that to which this is a supplement, shall be construed to prevent the said Commissioners, nor those appointed to adjust the claims to lands lying east of Pearl river, from acting and deciding at any time, on any claim which has been exhibited in the manner prescribed by law, although the evidence of the same may not, at that time, have been transcribed on the books of the register.

SEC. 3. *And be it further enacted*, That when any Spanish grant, warrant, or order of survey, shall be produced to either of the said Boards of Commissioners, for lands which were not, at the date of such grant, warrant, or order of survey, or within one year thereafter, inhabited, cultivated, or occupied by, or for the use of the grantee; or whenever either of the said boards shall not be satisfied, that such grant, warrant, or order of survey did issue, at the time when the same bears date, the said Commissioners shall not be bound to consider such grant, warrant, or order of survey, as conclusive evidence of the title, but may require such other proof of its validity as they may deem proper: And the said Boards shall make a full report to the Secretary of the Treasury, to be by him laid before Congress for their final decision, of all claims grounded on such grants, warrants, or orders of survey, as may have been disallowed by the said Boards on suspicion of their being antedated, or otherwise fraudulent.

SEC. 4. *And be it further enacted*, That the Secretary of the Treasury shall be, and he is hereby, authorized to employ an agent, whose compensation shall not exceed one thousand five hundred dollars in full for all his services, for the purpose of appearing before the said Commissioners, in behalf of the United States, to investigate the

claims for lands, and to oppose all such as he may deem fraudulent and unfounded. And each of the said Boards of Commissioners shall have the same powers to compel the attendance of witnesses, as are now vested in the courts of the United States.

SEC. 5. *And be it further enacted*, That the Board of Commissioners appointed to adjust the claims to lands lying west of Pearl river, shall be authorized to employ an assistant clerk, and also a translator of the Spanish language, to assist them in the despatch of the business which may be brought before them, and for the purpose of recording Spanish grants, deeds, or other evidences of claims on the Register's books. The said translator shall receive, for the recording done by him, the fees already provided by law, and may be allowed, not exceeding fifty dollars, for every month he shall be employed, provided that the whole compensation, other than that arising from fees, shall not exceed six hundred dollars. The assistant clerk shall be allowed a sum not exceeding five hundred dollars for his services; and each of the Commissioners of the said Board, in addition to the compensation now fixed by law, shall be allowed six dollars for every day he shall attend on the Board after the last day of November, in the year one thousand eight hundred and four: *Provided*, That this additional compensation shall not exceed two thousand dollars, for each of the said Commissioners.

SEC. 6. *And be it further enacted*, That, from and after the first day of April, in the year one thousand eight hundred and four, the Surveyor of the lands of the United States south of the State of Tennessee, shall receive an annual compensation of two thousand dollars, in lieu of the annual compensation now fixed by law. And the lands claimed by virtue of Spanish grants, legally and fully executed, and the titles to which were confirmed by the articles of agreement and cession between the United States and the State of Georgia, shall be surveyed in the manner prescribed by the act to which this is a supplement, at the expense of the United States, anything in the said act to the contrary notwithstanding.

SEC. 7. *And be it further enacted*, That the tract of country lying north of the Mississippi Territory, and south of the State of Tennessee, and bounded on the east by the State of Georgia, and on the west by Louisiana, shall be, and the same is hereby, annexed to, and made a part of the Mississippi Territory.

SEC. 8. *And be it further enacted*, That so much of the eighth section of an act, entitled "An act regulating grants of lands, and providing for the disposal of the lands of the United States south of the State of Tennessee," as provides, "that no certificate shall be granted for land lying east of the Tombigbee river," be, and the same hereby is, repealed: *Provided*, That no certificate shall be granted for any lands to which the Indian title has not been extinguished.

SEC. 9. *And be it further enacted*, That the Commissioners appointed in pursuance of the act aforesaid, be, and they are hereby, authorized and



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required to make, on or before the first day of December next, a full report to the Secretary of the Treasury of all claims that have been, or may be laid before them for lands held by warrant of survey and improvement in cases where the claimants were minors, and not heads of families, at the time such warrants were issued, with the circumstances which occasioned the issuing of such warrants, and the validity which has been considered as attached to the same.

SEC. 10. *And be it further enacted*, That, for the purpose of carrying this act into effect, a sum not exceeding twenty thousand dollars, shall be, and the same is hereby, appropriated, to be paid out of any money in the Treasury not otherwise appropriated.

SEC. 11. *And be it further enacted*, That the execution of so much of the twelfth section of the act to which this act is a supplement, as excepts "such town lots, not exceeding two, in the town of Natchez, and such an out-lot adjoining the same, not exceeding thirty acres, as may be the property of the United States, to be located by the Governor of the Mississippi Territory for the use of Jefferson College," be, and the same is hereby, suspended until the end of the next session of Congress.

SEC. 12. *And be it further enacted*, That transcripts of the records of the British province of West Florida, to claims for land therein, and which have been delivered to the Government of the United States, may be produced as evidence, and shall be entitled to the same weight in any court of the United States, as if the same had been delivered, or shall be delivered to either of the Registers of the land offices in the Mississippi Territory, before the last of March, one thousand eight hundred and four, anything in this act, or in the fifth section of the act to which this is a supplement, to the contrary notwithstanding.

SEC. 13. *And be it further enacted*, That the sum of three thousand dollars be, and the same is hereby appropriated, for the purpose of extending the external commerce, and exploring the lim-

its of the United States in the new acquired territory of Louisiana, out of any moneys in the Treasury not otherwise appropriated.

SEC. 14. *And be it further enacted*, That Major General Lafayette be, and he is hereby, authorized and empowered to locate and survey the lands allowed him by the fourth section of an act, entitled "An act to revive and continue in force an act in addition to an act, entitled 'An act in addition to an act regulating the grants of land appropriated for military services, and for the Society of United Brethren for propagating the Gospel among the Heathen, and for other purposes,' on any lands, the property of the United States, in the Territory of Orleans; and on presenting the survey of the said land to the Secretary of the Treasury, the President of the United States is hereby authorized to issue letters patent to the said Major General Lafayette for the quantity of lands allowed by the said act.

Approved, March 27, 1804.

Resolution to instruct the Joint Committee of Enrolled Bills to wait on the President of the United States, respecting a variance between an engrossed and enrolled bill.

*Resolved, by the Senate and House of Representatives of the United States of America in Congress assembled*, That the Joint Committee for Enrolled Bills be instructed to wait on the President of the United States, and lay before him the engrossed bill, entitled "An act for the relief of the captors of the Moorish armed ships Meshouda, and Mirboha," with the several amendments thereto, as the same was finally passed by both Houses of Congress; and to state the variance between the said engrossed bill and the enrollment thereof, as approved by the President, and to request that he will cause the said enrolled bill to be returned to the House in which it originated, for the purpose of rendering the said bill conformable with the engrossed bill and the amendments thereto, as passed by the two Houses of Congress.